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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1[redacted]1919

No. [redacted]1[redacted]6

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 20.

DEFENDANTS' TESTIMONY.

FILED [redacted]

(25292)

VOLUME XX.

INDEX OF WITNESSES.

	Direct.	Cross.	Re-direct.	Re-cross.
James Lippincott	7947	7952	7966	
John C. Jay, Jr.	7966	7980	7995	7997
Edward L. Parker	7997	8001		
Louis C. McKinney	8014	8017	8028	
John L. Haines	8029	8033	8039	8041
Robert Garland	8042	8044		
Frederick N. Beegle	8049	8057		
Cameron C. Smith	8063	8071		
Joseph F. Guffey	8084	8096	8108	8113
James H. Reed, Jr.	8119	8121	8125	8125
Charles H. Todd	8126	8129	8134	8134
Harry Inman	8134	8138	8155	8159
John M. Jamison	8171	8174		
Samuel G. Cooper	8176	8182	8187	
Charles F. Tuttle	8189	8197		
Allen M. Foster	8201	8209	8223	
William D. Taylor	8224	8235	8250	8253
George Israel	8254	8272	8286	8287
George Bartol	8288	8298	8307	8308
Isaac G. Haas	8309	8317	8324	8326
Edward F. Goltra	8329	8339	8344	8344

INDEX OF EXHIBITS.

	PAGE.
Government Exhibits Nos. 469, 470, 471	8188
Defendants' Exhibits Nos. 121 to 140, inclusive	8093
" " No. 141	8108

ONE HUNDRED AND EIGHTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, November 11, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. BOLLING and MR. REED.

JAMES LIPPINCOTT

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Pittsburgh.

Q. What is your present occupation?

A. I am vice-president and general manager of the West Leechburg Steel Company.

Q. How long have you been vice-president and general manager of that company, Mr. Lippincott?

A. About five or six years.

Q. In what year did you become vice-president, as closely as you can remember?

A. 1909, if I remember correctly.

Q. What was your connection with the company before 1909?

A. I was secretary.

Q. How long had you been secretary?

A. Ever since the organization of the company.

Q. When was the company organized?

A. The company was organized in 1897.

Q. Are you familiar with the purchases of raw material that are made by your company from time to time?

A. Yes.

Q. How long have you been familiar with its purchases?

A. Ever since I became actively engaged as general manager.

Q. That was about 1909?

A. About five or six years.

Q. What kind of raw materials does your company buy in the way of steel?

A. We have our own open hearth plant for producing billets. We buy for that plant pig iron and scrap, and as we do not make enough billets ourselves, we buy in the open market sufficient to take care of our finishing capacity.

Q. About what capacity have your open hearth furnaces annually?

A. We produce there about 30,000 tons a year.

Q. And about how many tons of billets do you buy in the open market?

A. Approximately 15,000 tons.

Q. Then, if I have understood you correctly, you use about 45,000 tons of billets in a year?

A. Yes.

Q. And you make about two-thirds of it?

A. Our output is approximately 45,000 tons a year, of all kinds of material.

Q. What kind of material does your company make and sell?

A. We make strip steel, hoops, bands and cold rolled steel.

Q. Has your company grown any since 1897?

A. Yes, very considerably.

Q. What is the period of the greatest growth? That is, when was it growing most?

A. The growth has been gradual. I should say it started about 1902, or thereabouts.

Q. Is it still growing?

A. Yes, slowly.

Q. It is a prosperous company, is it?

A. Yes.

Q. From what companies have you been buying this 15,000 tons of billets annually?

A. We buy billets from almost every producer in the Pittsburgh district.

Q. Will you name them, please?

A. Jones & Laughlin, Carnegie Steel Company, the Republic Iron & Steel Company, the Pittsburgh Steel Company, the Youngstown Sheet & Tube Company, the New York State Steel Company, the Cambria Steel Company and the Lackawanna Steel & Iron Company. I believe I mentioned the Carnegie.

Q. Have you bought any from the Portsmouth Steel Company?

A. We have bought some from the Portsmouth Steel Company.

Q. How about the Pennsylvania?

A. And the Pennsylvania Steel Company and the Harrisburg Pipe & Pipe Bending Company.

Q. You have bought billets from them too, have you?

A. Yes.

Q. Have you bought any from the Pittsburgh Crucible Steel Company?

A. Yes; that is a recent factor in the market.

Q. When did the Pittsburgh Crucible Steel Company begin to get into the billet market?

A. Just this year, I think, in August.

Q. It is a new concern?

A. That is, we bought in August for the first time, and I do not believe they were operating much ahead of that time.

Q. Where is this steel works built?

A. At Midland, Pennsylvania.

Q. That is in Beaver County?

A. That is in Beaver County, yes.

Q. Can you give us any idea of the time when that company was started?

A. Well, as I say, we made a purchase of them in August, and I think the deliveries commenced in the latter part of August, and continued through September.

Q. That was not exactly what I meant, Mr. Lippincott. Can you give us any idea of when the erection of their plant began?

A. I could not say as to that; but that organization is a part of the Crucible Steel Company of America.

Q. This is a new work of the——

A. It is a subsidiary of the Crucible Steel Company of America.

Q. Can you give us any information about the capacity of the Pittsburgh Crucible Steel Company?

A. No. I have no information on that line.

Q. Now, Mr. Lippincott, since you became familiar with the purchase of billets in 1909 or thereabouts, has it been the custom of your company to get bids from various billet makers before placing your orders?

A. Yes.

Q. How have the quotations that have been received from the billet makers ranged in price? Have they been uniform or have they been variant?

A. There has been competition, and, naturally, a difference in price by the different manufacturers.

Q. About what range of variation in price would you get in the different bids that were submitted to you?

A. The range would be all the way from ten cents up.

Q. Up to what?

A. Up to perhaps a dollar a ton. The prices were not very different, however.

Q. The prices of steel materials?

A. Of steel billets. That is what you are referring to, I believe?

Q. Yes, sir.

How have your orders been placed? That is, what determines the particular bidder to which you give the order?

A. It is always a question of price and delivery.

Q. How long has this competition in billets been going on, as far as you know? The whole of this time?

A. All of this period.

Q. As long as you have been familiar with the purchases?

A. As long as I have been familiar with the business.

Q. Does the number of bids fluctuate from time to time? That is, are all these companies in the market all the time?

A. No; not always.

Q. What conditions determine that?

A. Sometimes it is a question of location. For example, the Portsmouth Steel Company is located at a point where the freight is at least $2 a ton. They are not in a favorable position to make delivery in our district against those mills that have a rate of, perhaps, 65 cents a ton. Naturally, they are not in it with some of the others at times.

Q. What times are they in it, and what times are they not?

A. When prices are high and there is a good margin of profit to the maker they can absorb that excessive freight; but in close times we very seldom get anything from those distant points.

Q. How about this output of your company; is that sold in competition or otherwise?

A. It is sold in competition.

Q. Tell us the names of some of your competitors, Mr. Lippincott?

A. On hoops and bands the Carnegie Steel Company, the Sharon Steel Hoop Company, Jones & Laughlin, the Pittsburgh Steel Company, the Superior Steel Company, the American Tube and Stamping Company are our competitors.

Q. Are they real competitors?

A. They are real competitors.

Q. Is the competition of your company with them limited or restrained in any way?

A. No.

Q. Is your company in any pools or associations to fix prices?

A. None whatever.

Q. Has it been during your connection with it?

A. It never has.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Mr. Lippincott, are you not very friendly to the defendant in this suit?

Mr. Reed: Which defendant?

Mr. Dickinson: The United States Steel Corporation.

The Witness: In a business way we are friendly; yes, sir.

By Mr. Dickinson:

Q. Have you not declined to give counsel for the Government any information that you might have in regard to the questions in controversy in this case?

A. Yes, sir, I declined.

Q. You are here without subpœna, aren't you?

A. Yes, sir.

Q. You came from Pittsburgh?

A. Yes, sir.

Q. Are your expenses paid by the defendant?

A. I paid my own expenses.

Q. You expect to be reimbursed?

A. Well, I don't know.

Mr. Reed: I would not allow that to remain doubtful for a minute. We expect to reimburse Mr. Lippincott for his expenses, of course.

Mr. Dickinson: I just wanted to know what his expectation was.

Mr. Reed: Probably it is more definite now.

By Mr. Dickinson:

Q. What was your expectation when you came?

A. I had not given the matter any consideration.

Q. You came without any subpœna, without giving that any consideration?

A. Yes, sir.

Q. Mr. Lippincott, five years ago what position did you occupy with your company?

A. It was about five or six years ago that I became general manager and vice-president; prior to that I was secre-

tary. I took no active part in the management of the business at that time.

Q. But since that five years you have taken an active part?

A. Yes, sir.

Q. You say since then your company has been in no pool or combination?

A. We have never been in any pool or combination.

Q. Who is president of your company?

A. Mr. J. L. Kirkpatrick.

Q. Has he been president during that period?

A. During part of that period.

Q. When you speak of your company's not being in pools and combinations, you mean so far as your action is concerned, do you?

A. No, I can speak so far as the history of the company is concerned.

Q. Can you undertake to speak of the history of the company, although you may not have actively made that history?

A. Yes, sir.

Q. And although others may have made the history, still you speak for the history of the company?

A. I have been an officer and director of the company ever since its inception, and would know of anything of that kind had it been in vogue.

Q. And you claim to know whatever the president may have done, whether you were present or not when it may have been done, do you?

A. I should know of it, having been secretary during a number of years.

Q. Now, Mr. Lippincott, take the year 1909, what tonnage of billets did you buy that year?

A. I could only speak offhand from memory; I have no figures on the subject.

Q. Well, give us your memory, if you have got a memory about it.

A. I should say in the neighborhood of 10,000 tons over and above what we made ourselves. Prior to that we used more, because it was about 1909 when we started to make our own steel.

Q. I understand your knowledge of the purchases and what you have testified is since you became general manager?

A. Yes, sir.

Q. And that year was 1909 when you became general manager?

A. Yes, sir.

Q. And that year you say it was about 10,000 tons?

A. Approximately 10,000 tons.

Q. Well, in 1910 what was it?

A. I can only speak again from memory, that the tonnage we bought from the outside——

Q. That is what I mean.

A. (Continuing) ——was from 10,000 to 15,000 tons per year; it varied according to our requirements and the condition of business.

Q. Could you come no nearer in 1910 than to say it was from 10,000 to 15,000 tons?

A. If I had known that such information was wanted I could have given more accurate figures.

Q. I just want to know what you now know about it. Give us, as far as you know, the amount in 1910.

A. Well, I should say it was about 10,000 tons.

Q. Well, in 1911 what would you say it was?

A. It was not more than that; it might have been a little less.

Q. Not more than 10,000 tons, and might be less?

A. Yes, sir.

Q. Now, 1912, what was it?

A. It was probably 15,000 tons in 1912.

Q. Now, in 1909 from whom did you buy those billets? Give me the companies that you bought them from in 1909.

A. I can speak only from memory on all of this.

Q. That is what I am asking you for, what you remember.

A. And I may be mistaken as to the names of the concerns from whom we bought, but I should say in 1909 we bought from the Carnegie Steel Company, Jones & Laughlin, Youngstown Sheet & Tube Company. We bought also some through brokers or middlemen.

Q. What proportion in 1909 did you buy of Carnegie and Jones & Laughlin, respectively?

A. I could not answer that question. I am not at all familiar with the figures.

Q. Do you know which you bought the most of, Carnegie or Jones & Laughlin?

A. I should say from the Carnegie Steel Company.

Q. What proportion of your 10,000 tons did you get from the Carnegie Steel Company for that year?

A. Well, I could not answer that.

Q. Well, what proportion did you get from brokers?

A. I could not give you any figures as to the proportion we bought from various concerns at that time. I would have to refresh my memory by looking up records.

Q. Well, take the year 1910: Can you give the proportion which you bought?

A. No, I could not.

Q. 1911?

A. We bought more from the Carnegie Steel Company in 1911, I believe.

Q. What proportion did you buy of your requirements in 1911 from the Carnegie Steel Company?

A. Probably one-half.

Q. In 1912 what proportion from Carnegie?

A. I do not believe we bought any from Carnegie during 1912.

Q. Do you know that you did not?

A. I would not like to say we did not, but my impression is that we did not.

Q. Have you a distinct recollection one way or the other?

A. No, I have not.

Q. How about 1913? What proportion did you buy of Carnegie?

A. 1913?

Q. The present year.

A. The present year we have bought, perhaps, three or four thousand tons.

Q. And how much have you bought altogether up to this time in 1913?

A. I should say about 6,000 tons. We have bought about 6,000 or 7,000 tons this year.

Q. Altogether?

A. Altogether, yes.

Q. And of that you have bought 3,000 or 4,000 tons from the Carnegie Steel Company?

A. Yes, sir.

Q. Over half of your requirements, then?

A. Yes, sir.

Q. What price did you pay for that, that you bought from Carnegie?

MR. REED: This year?

MR. DICKINSON: Yes.

THE WITNESS: The price varied according to the time of purchase, and the kind of billets.

By MR. DICKINSON:

Q. How many distinct purchases did you make from Carnegie this year?

A. Two; possibly three.

Q. When did you make the first one?

A. I think in September.

Q. In September, 1913?

A. In September, 1913.

Q. What was the base price at that time on that purchase?

A. $23.50 as I recall it.

Q. Did you pay that?

A. Yes.

Q. At the time you made that purchase what other bids did you get and from whom, and what were the bids?

A. At that time I got bids from the Republic Iron & Steel Company.

Q. That is in September?

A. Yes.

Q. Well, who else?

A. From two middlemen, Hickman, Williams & Company and Banning, Cooper & Company.

Q. Those were middlemen?

A. They were middlemen, yes. They handled steel of other

manufacturers. I was trying to think if there were any others. Yes, Jones & Laughlin, at that time.

Q. You say there were two middlemen; what was the first name you gave?

A. Hickman, Williams & Company.

Q. Did they represent more than one concern?

A. They bought and sold billets.

Q. They bought themselves and sold, or did they sell as brokers of others?

A. I do not know how they conduct their business; we bought direct from them and paid them. I presume they buy direct from the mills and turn the material over to us.

Q. You do not know what mills they represent?

A. Yes, we always know the steel we are getting.

Q. That is, when you get it?

A. No, before.

Q. Before you get it?

A. Before we get it.

Q. Do they represent constantly or for any consecutive period any particular concerns, or do they buy themselves and then resell?

A. They buy and resell; sometimes it is one maker's steel and sometimes another.

Q. Not as agents?

A. No, we do not regard them as agents.

Q. Is that the same way in regard to the other broker firm that you spoke of?

A. Yes.

Q. Now, in September on that purchase that you made from the Carnegie Company, did you solicit bids?

A. Yes.

Q. In what form would you solicit bids?

A. We simply notified or telephoned the salesmen of these respective companies that we were in the market.

Q. And you paid the Carnegie $23.50, I believe you said?

A. That is as I recall it.

Q. What was the bid of the Republic on that purchase?

A. As nearly as I can recall, it was $23.75.

Q. Now you stated that the Republic at that time made a bid to you of $23.75; is that the base price?

A. Yes.

Q. What did Jones & Laughlin bid at that time?

A. Their price was still higher.

Q. Higher than $23.75?

A. Yes.

Q. On that particular purchase?

A. Yes.

Q. Well, what were the bids of these two firms of brokers? Did you solicit them?

A. Yes.

Q. Were their prices higher?

A. One of them was higher because they were selling the Portsmouth Steel Company's product, and as I recall it their price was almost a dollar a ton higher than the Carnegie Steel Company's price.

Q. Now, this bid of the Republic, how was it made to you?

A. It was made verbally through their salesman.

Q. Who was he?

A. His name was Claypool.

Q. What are his initials?

A. George L., I believe.

Q. Did he make it to you?

A. Yes.

Q. Now, the bid of Jones & Laughlin, how was that made?

A. That was made by one of their salesmen.

Q. What was his name?

A. Pollock.

Q. Did he make it to you?

A. Yes.

Q. That was one purchase in 1913. Now, you said you made another from the Carnegie. When was that?

A. That was about a month or six weeks later.

Q. That would bring it in when?

A. It was only last month.

Q. How much did you buy then?

A. Approximately a thousand tons.

Q. What did you pay?

A. The base price was $21.50.

Q. That is what you paid?

A. Yes.

Q. Was that above or below the quoted market price at that time?

A. Well, it was about the market price, or perhaps a little lower, otherwise they would not have gotten the business.

Q. When I speak of the market price I mean the current market price reported as of that time in the Iron Age and other trade journals. Do you know what the market price was at that time?

A. Yes; it was about that figure. It was quoted a little higher than that.

Q. Then you got a little less than the quoted market price?

A. The daily publications were a little higher.

Q. A little higher than what you paid?

A. Yes.

Q. What other concerns did you get bids from on that purchase?

A. Republic Iron & Steel Company, and E. W. Mudge & Company.

Q. Who are they?

A. They are middlemen.

Q. Who else?

A. Banning, Cooper & Company.

Q. Is that all?

A. I believe that is all.

Q. What did the Republic bid on that?

A. Their price was a little more than the Carnegie Company; just how much I cannot recall. Those quotations were always verbally by all the salesmen.

Q. And this quotation was given to you by the Republic Iron & Steel?

A. Yes.

Q. Who was the agent that gave that?

A. That agent was Mr. Hall.

Q. What are his initials?

A. I don't remember; he is a new man.

Q. And what concern did Mudge represent?

A. I do not know. I did not inquire as to what steel he was offering, but I am under the impression that it was the Republic Iron & Steel. We always made that inquiry after the purchase was made.

Q. So that you got two bids from the Republic?

A. No, we didn't get two bids from the Republic.

Q. You said you got one from Hall?

A. Yes.

Q. Then you said you got one from E. W. Mudge.

A. I am not sure that that was Republic steel, but they had been handling Republic steel; it may have been the Youngstown or Cambria Steel Company.

Q. You don't know whose it was?

A. No.

Q. What was the name of the other concern?

A. Banning, Cooper & Company.

Q. Did they bid?

A. Yes.

Q. Did they bid higher or lower than the Carnegie Steel Company?

A. They bid a little higher.

Q. What was their bid?

A. I do not recall the exact figure.

Q. Who made that bid; did they make it themselves?

A. That was made by Mr. Claypool, who was formerly with the Republic Iron & Steel Company, but just shortly before that came over to Banning, Cooper & Company.

Q. That bid was made to you?

A. Yes.

Q. What concern did they represent?

A. I can't recall that; I do not know.

Q. And did not know when you declined it?

A. No; it was always understood that the steel would be satisfactory to us, the steel of a manufacturer whose product was approved by us.

Q. Now, in 1909, at that time you bought partly from the

Carnegie and partly from Jones & Laughlin, and partly from the Youngstown Sheet & Tube Company, and some from brokers; how many purchases did you make in 1909 from these parties, how many separate purchases, and at what times?

A. It is impossible for me to answer that from memory—perhaps half a dozen.

Q. It might have been more?

A. It might have been, but I hardly think so.

Q. It might have been less?

A. Yes.

Q. How many times did you buy from the Carnegie that year?

A. I could not answer that.

Q. What prices did you pay for the purchases you made from them?

A. I could not answer that.

Q. Have you any recollection at all of the price?

A. No. The price fluctuates considerably over a period of twelve months.

Q. You have no recollection, then, of the price?

A. I have no recollection of the prices.

Q. Have you any recollection of the prices you paid Jones & Laughlin?

A. No; not during that year.

Q. How many times did you purchase from Jones & Laughlin during that year?

A. I am not prepared to answer that.

Q. Have you any recollection of the prices you paid the Youngstown Sheet & Tube Company?

A. We made one purchase of them of 3,000 tons of billets at $25. That is the only purchase I can recall about that period.

Q. That is, in 1909?

A. Yes; in the early part of 1909; as nearly as I can remember.

Q. So you bought, then, how many tons, did you say?

A. 3,000 tons.

Q. Take the Carnegie Company: For 1909 how many purchases did you make from that company during that year?

A. I could not possibly answer that from memory.

Q. You said you could not give the prices at which you purchased from the Carnegie Company. Is that correct?

A. I could not give the prices, nor say how many purchases we made.

Q. Could you give the bids made on those particular purchases and who made the bids?

A. No, sir; I could not.

Q. You have no recollection about that?

A. It would be impossible for me to remember all of those bids. We were making purchases every few months, and every purchase was at a different price, and there were various bids on each purchase.

Q. And you have no recollection of what they were, or what the variation was?

A. I have no recollection; no, sir.

Q. And you could not give any of the figures?

A. No, sir.

Q. Could you give any figures for the purchases in the year 1910?

A. No.

Q. Or the variation in the bids?

A. I have no recollection of the prices.

Q. Have you any recollection of the prices in the year 1911?

A. I believe that was the year when prices dropped to a very low point, and I recall one purchase only.

Q. Who was that from?

A. That was from the Carnegie Steel Company.

Q. What did you pay them?

A. $19.25 for billets delivered at our mill.

Q. What was the amount you bought from the Carnegie Company at that time?

A. Possibly two or three thousand tons.

Q. Is that the only price you can give for that year?

A. I recall that price only, because it was the lowest price at which we bought.

Q. When did that occur? At what time of the year?

A. I am not able to answer that.

Q. Do you not know there was a break in prices in 1911; a very sharp break?

A. A very sharp break, yes; and that price marked the lowest point at which we bought. That is why I recall it.

Q. Was there not such a thing known as an open market in that year?

A. So far as I know there has been an open market for a good many years.

Q. Don't you know that in 1911 there was a sharp break in prices, as contrasted with what the prices had been along a pretty nearly constant level in billets for a period preceding this time, and this break caused a very sharp competition for business?

A. Yes; the competition was very keen.

Q. At that time?

A. At that itme.

Q. And was there not cutting of prices at that time more marked than there had been preceding that?

A. Yes, sir.

Q. For 1912 how many separate purchases did you make covering the 15,000 tons that you got that year?

A. I do not recall.

Q. Do you recall any price at which you purchased that year?

A. We made various purchases, but I could not recall the exact prices nor the dates at which those purchases were made.

Q. Nor the various bids?

A. No.

Q. Of course, if you knew the bids you would know the prices, would you not?

A. Yes.

Q. They were the prices offered, were they not?

A. Yes.

Q. You could not recall anything about that?

A. No; I could not give very definite information on that.

Q. Have you any distinct recollection about it one way or the other? If so, just give it.

A. I could only state a range of prices.

Q. Is that range one of memory or just a general theory on your part as to prices?

A. Well, it is probably theory more than actual memory.

Q. Can you give, from memory, a single price or a single bid for that year?

A. In 1912?

Q. In 1912.

A. We paid, as nearly as I can recall, about $27, the latter part of 1912, for some billets.

Q. You say you paid, as nearly as you can recall, about $27. Do you remember that you paid $27? If it was not $27, what was it that you do remember, if you remember at all?

A. It is very difficult for me to fix dates of purchase.

Q. Then do you remember?

A. No; I cannot remember a price at any certain period.

Q. Can you remember any price for the year 1912 that you paid, and to whom you paid it?

A. No.

Q. You said your output was about 45,000 tons of all kinds. Is that correct or not?

A. Approximately correct, yes.

Q. Please explain fully what this output, if that is the correct amount, approximately 45,000 tons, covered? What was it?

A. It included hoops and bands and cold rolled steel and strip steel generally.

Q. What tonnage did you produce yourself in billets?

A. During the past year?

Q. Yes. What was the year you spoke of when you gave that figure of 45,000 tons? What year did that refer to?

A. That referred to our last business year.

Q. How many billets did you produce yourself outside of what you purchased for that year?

A. Approximately 30,000 tons.

Q. And you bought about 15,000?

A. Yes, sir.

Q. So that made about 45,000 tons of billets that you converted into strip steel, hoops, bands and cold rolled steel; that is correct, is it?

A. Yes, sir.

Q. What proportion of that was strip steel?

A. It was all strip steel in a sense; hoops and bands are all strip steel.

Q. Then what proportion of it became hoops; hoops and bands, you count them together?

A. Hoops and bands are akin.

Q. Then give me the tonnage of hoops and bands?

A. It was all hoops and bands in its crude state.

Q. But then you had cold rolled steel?

A. Hoops and bands are carried to a higher state of finish in making cold rolled steel.

Q. Then really that 45,000 tons was originally hoops and bands?

A. Yes, sir.

Q. And some of that was made into a higher form?

A. Yes, sir.

Q. How much of that went into a higher form?

A. About 12,000 or 13,000 tons.

Q. What is that higher form of product?

A. That is cold rolled steel.

Q. Assuming that you converted 45,000 tons of billets, would that make 45,000 tons of what you call your output of all kinds, or would there be a reduction of that?

A. There would be a conversion loss there.

Q. What would that be, about?

A. That varies according to the degree of finished product. Of course in speaking of 45,000 tons of crude product I refer to gross tons of 2,240 pounds. Speaking of finished product we always refer to it in net tons.

Q. So when you speak of billets you speak of gross tons?

A. Yes, sir.

Q. Then that 45,000 tons of billets would produce what tonnage of finished products?

A. Between 40,000 and 45,000 net tons of finished product.

MR. DICKINSON: That is all.

RE-DIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Lippincott, you have stated your sympathies were with the United States Steel Corporation in this case.

A. Yes, sir.

Q. And for that reason you refused to talk the matter over with Government counsel before testifying?

A. Yes, sir.

Q. I wanted to ask you whether your sympathies were with us because you are a holder of the stock or the bonds of the Steel Corporation?

A. No, sir.

Q. That is not your reason, is it?

A. No, sir.

JOHN C. JAY, JR.

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Your place of business is Philadelphia, is it not, Mr. Jay?

A. Yes, sir.

Q. And your home is in Ardmore, near there?

A. Yes, sir.

Q. What is your occupation?

A. I am general manager of sales of the Pennsylvania Steel Company and the Maryland Steel Company.

Q. When did you become general manager of sales of those companies?

A. 1912.

Q. Do you remember the date?

A. The 1st of August.

Q. Prior to that what had been your position with the company?

A. I was in charge of the New York office at 71 Broadway.

Q. You mean the New York sales office?

A. Yes, sir.

Q. How long had you been in charge of the New York office?

A. I was appointed head of the office in 1906.

Q. Prior to that had you been with the Pennsylvania Steel Company?

A. Yes, sir.

Q. In what capacity?

A. I started in as an apprentice in 1901, after leaving college, and then I worked up through the various grades of salesmanship.

Q. Until you became manager of the New York office in 1906?

A. Yes, sir.

Q. Since 1906, when you took charge of this New York office, have you been familiar with the sales policies of your companies?

A. Yes, sir.

Q. Sales policies and sales practices too, I suppose?

A. Yes, sir.

Q. Does the Pennsylvania Steel Company make heavy standard rails?

A. It does. So does the Maryland Steel Company.

Q. Which, if either, of the companies makes beams?

A. The Pennsylvania Steel Company has made beams from time to time, and we have the rolls for beams to-day, but the tonnage that we produce is absolutely negligible.

Q. You are using those mills for other products, are you?

A. Yes, sir.

MR. DICKINSON: Which one did you say made beams?

THE WITNESS: The Pennsylvania Steel Company has made them.

By MR. REED:

Q. Does the Pennsylvania make bars?

A. Yes, sir.

Q. Does the Maryland?

A. No, sir.

Q. Does either make billets, blooms and slabs?

A. The Pennsylvania. One of its principal products is billets, blooms and slabs; the Maryland Steel Company at different times has made billets and blooms, but we do not consider it a regular product of the company. We only make them really in dull times.

Q. That is in the Maryland Steel Company?

A. The Maryland.

Q. The Pennsylvania Steel Company makes them regularly?

A. It is one of our important products.

Q. Now, the Pennsylvania Steel Company has a fabricating shop, has it not?

A. It has.

Q. The Maryland Steel Company has not, except its shipbuilding plant?

A. The Maryland has a department which is known as the dry-dock department, which is a fabricating department. It built the dry-dock "Dewey," for instance, for the United States Government, but it is not a bridge shop strictly; it is a fabricating shop, however.

Q. Its products are vessels and dry-docks?

A. Vessels and dry-docks.

Q. And the Pennsylvania Steel Company makes frogs and switches, too?

A. Frogs and switches. We have a bridge shop, and we make forgings and castings and a general line of merchant products.

Q. Has there been competition in these various products since 1906?

A. There certainly has.

Q. Is that competition always the same, regardless of whether the mills are full or whether they are needing orders? That is, does the character of the competition vary with the condition of the order book or is it always the same?

A. I do not quite understand your question. There is always competition. I think the character of it varies as to

whether the mills need work more badly or less badly. In bad times the competition is more keen always, of course.

Q. Let us put it this way: In bad times, when the mills need orders, what elements enter into the competition of the various makers of these products? Of course there is the element of price, I assume?

A. Price, delivery and quality of material are very important.

Q. In good times, when the mills are pretty well filled up, what is the nature of the competition, if there is competition then?

A. I think in good times the delivery assumes a greater importance than it does in bad times. In other words, in good times the price element becomes more secondary.

Q. The competition then is among the buyers to get material?

A. Yes, sir.

Q. Did you go to any of the Gary dinners in 1907 and 1908?

A. No, sir.

Q. Or since then?

A. No.

Q. You have never been to any?

A. I have never been to any of them.

Q. Do you remember the time at which those dinners were held?

A. I do.

Q. What was the policy of your company as to going after business in the winter of 1907-08? Were you competing then with other companies?

A. Oh, yes.

Q. Did that competition extend to matters of price?

A. Yes.

Q. What was the effect of this Gary dinner movement on the competition as you saw it?

A. I think it had a wholesome effect on the trade; I think it prevented runaway conditions and foolish action.

Q. Did it prevent all price-cutting?

A. No, sir; not so far as I came in contact with it; not so far as I observed it.

Q. Are there any combinations to fix prices in which your company now participates?

A. No.

Q. Have there been any since 1906?

A. No, sir.

Q. Did you consider, at the time of these Gary dinners and afterwards, you were bound to maintain a rigid price?

MR. DICKINSON: I object to what he considered; ask for the facts.

By MR. REED:

Q. (Continuing) That you were under obligations to your competitors never to change the price?

A. No.

Q. Now, Mr. Jay, at the present time do you or does your company belong to any associations of manufacturers of various products? I am not asking you now about pools, but about associations of any kind?

A. Yes, we do. We are members of four.

Q. Will you name them, please?

A. Yes; they are all what is known as "open-price societies." The names of them are the Bridge Builders' Society, the Manganese Track Society, the Manganese Steel Founders' Society, and the Steel Founders' Society of America. The members of that society make carbon castings.

Q. None of these societies fix the price of their products?

A. Absolutely not; no, sir. They have an absolutely open market.

Q. What is done by these associations or by the members of them.

MR. DICKINSON: You have not shown yet that he attends them. I might perhaps brings it out by cross examination, but I do do not think you have laid grounds to qualify him to speak.

MR. REED: Of course Mr. Jay will not state anything about which he has no personal knowledge.

MR. DICKINSON: He is a lawyer?

THE WITNESS: No, I am a layman.

By Mr. Reed:

Q. You do not attend the meetings of these societies?

A. Yes.

Q. Tell us what is done and what has been done at the meetings of these societies that you attended?

A. The whole idea of the open price societies—and when I speak of the societies everything I say will apply to each one to which we belong, although the details of operation in each society may be a little bit different, as the conduct which comes under the jurisdiction of the societies varies—the whole idea of it is perfect frankness. We tell each other everything about our business conditions; we discuss prices with the utmost freedom after they have been quoted. After we have made a bid to a customer we exchange all the bids that we have made with each other. The whole idea is that running individually we each of us only see a part of the business, but if we can all of us throw our cards right onto the table we will see the whole business and we will have the whole business on which to base an intelligent business judgment. There is another very important feature, and that is that we protect ourselves against the dishonest purchaser.

Q. You mean to say that that is necessary, Mr. Jay?

A. Surely.

Q. Explain how?

A. It frequently happened under the old cut-throat secret method of doing business that a purchaser gets bids from half a dozen different manufacturers and misrepresents to the different sellers the prices that he has received. The result is that you inevitably, if you want the business badly, end up by meeting perfectly fictitious prices, and there are always some people in business who have not got the proper idea of costs, and a condition results where the business finally goes below cost, which is a ruinous condition not only to the manufacturer but to the consumer as well.

Q. Is it the purpose of these societies to eliminate all price cutting?

A. Oh, no; we frequently cut each others' prices, after we have seen them.

Q. Are any of the subsidiaries of the Steel Corporation—

or is the Steel Corporation itself—a member of any one of those four societies?

A. I am sorry to say they are not.

Q. The whole idea of these societies, then, is a frank interchange of facts among competitors?

A. Absolutely.

Q. Is any secret made of them?

A. Not only is no secret made of them, but at the last meeting I was instrumental in having the doors thrown open to the reporters of the trade journals. A good many others thought that was too radical, but I think it is a step in the right direction.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

JOHN C. JAY, JR.,

the witness under examination at the taking of recess, resumed the stand for further examination.

DIRECT EXAMINATION (Continued)

By MR. REED:

Q. Mr. Jay, you have described the methods and practices of these open price associations such as the Bridge Builders' Society and the others?

A. Yes, sir.

Q. Was it your understanding of the Gary dinners that they had a similar purpose?

MR. DICKINSON: I object to what his understanding was. I believe he stated he did not attend, didn't he?

MR. REED: He stated that he did not attend.

MR. DICKINSON: I object to that as incompetent.

THE WITNESS: In a general way, yes.

By Mr. Reed:

Q. It fell to you as manager of the New York office to apply your understanding of the movement, if we may call it that, did it not?

Mr. Dickinson: I object to that as leading and calling for a conclusion of the witness.

The Witness: In a general way, yes.

By Mr. Reed:

Q. What was your understanding of the purposes of those meetings that have been called the Gary dinners?

A. My general understanding of the Gary dinners——

Mr. Dickinson: This is objected to as based on hearsay.

The Witness: (Continuing) ——which understanding would come to me through talking with the officers of our company who attended, was that the general purpose of the Gary dinners was to stabilize conditions in the steel industry. It would be a good deal like members of the clearing house getting together in times of panic and consulting together as to what was the wise thing to do. In other words, if you have a complete view of the situation rather than a piecemeal view of it, you are in a position to act much more wisely and make a scientific business judgment.

By Mr. Reed:

Q. Did you act on that understanding?

A. Our company did.

Q. And on those occasions during that period you had first-hand knowledge, did you?

Mr. Dickinson: I object to that as leading and a conclusion and not showing the source of his knowledge.

A. Yes, sir.

By Mr. Reed:

Q. My Jay, was the effect of the Gary dinners, so far as you observed it, to prevent price-cutting?

A. Not price-cutting, but to prevent demoralization in the steel business.

Q. Would it be correct to say that it prevented a price war?

A. Yes, sir.

Q. As distinguished from price-cutting?

A. That was undoubtedly the idea that we had in mind; we all wanted to avoid a price war.

Q. How would you distinguish a price war from ordinary price-cutting; what is the difference?

A. I should say a price war would amount to a condition that was very akin to a panic; it would be like a snowball going down hill and accumulating all the time. In other words, in the case of a price war prices would get down probably below cost for a good many manufacturers, if not for all.

Q. What would cause that? What would be the reason for it?

A. A good deal a feeling of panic on the part of different steel mills; their mills would be idle; they would see prices going down and no business in sight, and they would all get together and scramble to get what business there was, quite regardless of whether it was a wise thing to do or not.

Q. I call your attention, Mr. Jay, to Government Exhibit (Walker) No. 246, appearing in the Government Exhibits, Volume V, Part 1, page 1653, and ask you if you have seen that same exhibit before?

A. Yes.

Q. Does your company make or sell black sheets?

A. We do not.

Q. Does it make or sell tank plates?

A. No.

Q. Does it make and sell steel bars?

A. It does.

Q. Did it during the greater part of the period shown on this diagram make and sell beams?

A. Our output of beams was negligible.

Q. Your bar product is the most important of those shown on that diagram?

A. Yes, sir, of those shown there.

Q. Mr. Jay, I call your attention to the price of bars shown on this diagram for the last nine months of the year 1905, and for the years 1906, 1907 and 1908, and ask you whether your company's sales of bars during those years were made at the prices shown on that diagram.

A. They were not made at the exact prices shown on the diagram; they were prices that were close to it.

Q. Does the diagram do more than approximate the prices prevailing in the market?

A. Not as far as our company is concerned.

Q. That is what I mean; as far as your company is concerned.

A. No.

Q. During that period was there any obligation of any kind, so far as you are aware, resting upon your company to quote a uniform price on steel bars with the other manufacturers?

A. No, I do not know of any.

Q. Did you in the quotations which you yourself made during that period adhere to the price shown there for steel bars?

A. We did not.

Q. You say that the variations from that curve would not be very great. Will you tell us whether, since you became familiar with market conditions in 1906, the different producers have been fairly well aware of what one another was doing in the market?

A. Why, certainly.

Q. And has that been increasingly so as time went on, or have you always kept in touch in one way or another?

A. We have always kept in touch.

Q. You do not cut the price any more than is necessary to get the business?

A. Not if we can help it.

Q. Has this movement which you call "open-price associations" had any effect in keeping you advised of market quotations and the general market conditions?

A. Yes, I think it has. It has been a distinct help.

Q. What result has that had on the fluctuations in price?

A. It has stopped, in my opinion, the extreme fluctuations; that is, the peaks and the valleys. It has not in any way hampered changes in price or price fluctuations beyond removing those extreme peaks.

Q. What was the effect of the Gary dinner movement, as it is called, in that direction?

A. There was not any high peak at the time of the Gary dinners. I think the Gary dinners undoubtedly tended to steady things.

Q. And stop wild fluctuation?

A. Yes.

Q. So far as you have been able to observe has the large size of the Steel Corporation worked any injury to your company?

MR. DICKINSON: I object to that as calling for a conclusion based upon undisclosed facts, and a mere opinion of the witness based on facts not shown to the Court.

THE WITNESS: On the whole, not; I should say in certain individual cases, probably it has.

By MR. REED:

Q. Cases of what sort?

A. Well, cases where the Steel Corporation could bring influences and ramifications to bear which we would not have.

Q. Has its competition been fair, so far as could be observed?

A. I think it has been fair, very fair.

Q. Do you think its large size has worked any injury to the consumer?

A. No.

Q. Is not that a paradox, that there has been no injury to its competitors and no injury to its customers?

A. No.

Q. Why not?

A. Because the interest of the competitor and the interest of the consumer are bound up in the general welfare of the trade.

Q. I want to ask you a little more about the nature of competition. You have told us there was competition as well in quality and delivery as in price. Do you make any steel known as Mayari steel?

A. We do.

Q. How does the price for that contrast with the price that is received for steel made from the Lake Superior ores?

A. On the average the price is higher for the product that we receive.

Q. The product that you make?

A. I mean the product that we make.

Q. Is there a good demand for the product of that Mayari ore?

A. Yes, there is; there is a constantly growing demand for it.

Q. Now, take, in this matter of forging billets and that class of steel product, has the demand been up to your capacity?

A. Yes.

Q. Has it at times been beyond it?

A. It has at times been considerably beyond it.

MR. DICKINSON: Is that this Mayari steel that you are talking about?

MR. REED: Yes.

By MR. REED:

Q. Do you find that the fact that you use that Mayari ore makes it easier for you to sell the products of your company?

A. I can best answer that by telling you that in three years we have shipped very close to 100,000 tons past the front door of the Gary mills to points west in rails alone.

Q. Made of Mayari steel?

A. Made of Mayari steel.

Q. That is all made from a Cuban ore?

A. Made from a Cuban ore, the north coast of Cuba.

Q. If you had a greater capacity for that kind of steel do you feel you could sell it?

A. We feel so sure of it that we are planning an expansion of our plant to supply it.

Q. A great deal of money has been put into your plants in the last ten years?

A. Yes, principally along the lines of securing of our supplies, the supplies of raw material.

Q. That is, buying ore?

A. Ore, coal and coke ovens.

Q. Where have you built your coke ovens?

A. We have built three sets of coke ovens, one at Steelton, one at Sparrows Point and one at Lebanon; we are now building an additional set at Sparrows Point.

Q. Where do you get your coking coal?

A. It comes from properties known as the Penn-Mary Coal Company, situated near Cresson, Pennsylvania.

Q. That is not in the Connellsville district at all, is it?

A. I think not.

Q. Do you happen to know what county Cresson is in?

A. No, I do not; I have never been in the coal mines.

Q. Now, in addition to all that increase you say your company is contemplating a further increase?

A. We are.

Q. In what direction will that further increase be made; in the direction of adding to your product new finished materials?

A. Yes.

Q. Do you object to telling us about what sum of money is expected to be spent on that in the near future?

MR. DICKINSON: I object to that as incompetent and irrelevant.

THE WITNESS: We expect to spend about $10,000,000 within the next three years.

By MR. REED:

Q. Has the financing of that been arranged?

A. The financing has been arranged.

Q. Is it expected also to make any increase in capacity for producing your present products, besides adding new products?

A. Yes; I might say that all that information is in our annual report, so that it may be made a matter of record if anybody wants it.

Q. Do you sell any steel abroad?

A. We do.

Q. Where has the largest part of your foreign trade been?

A. We have shipped rails to Argentina. I should say that Mexico was our biggest foreign business.

Q. That is somewhat interrupted at present, I suppose?

A. Very much so.

Q. Has your foreign business increased steadily since you became familiar with it?

A. With the exception of our Mexican business it has not.

Q. What is the reason it has not?

A. Because we have not had a consistent policy in regard to foreign business, with the exception of Mexico.

Q. Are you familiar in a general way with the Steel Corporation's foreign trade?

A. In a general way, yes.

Q. You know that it has warehouses located in different parts of the globe?

A. Yes, I know that.

Q. Is that of any assistance to it in the development of its foreign trade?

A. Unquestionably.

Q. Do you feel that a large corporation like the Steel Corporation, which has its branches scattered all over the world, is in a better position to enter the foreign trade than a concern in the position of your own company, at present?

MR. DICKINSON: I object to that as incompetent and irrelevant.

THE WITNESS: It is the only way, in my opinion, to properly market your products abroad.

By MR. REED:

Q. How is that; you mean on a large scale?

A. By having just what the Steel Corporation has had, a consistent foreign policy.

Q. That requires a very large expenditure to get started?

A. Yes, brains and money.

Q. What do you think of the Steel Corporation's policy as to foreign trade?

MR. DICKINSON: Objected to as irrelevant and incompetent.

THE WITNESS: I think it is very creditable, and something every American should be proud of.

MR. REED: You may cross examine.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You say that your company has not had a consistent policy except as to Mexico in its foreign business. Will you please explain what you mean by "consistent policy," or the absence of it?

A. We have sold abroad as the exigencies of the moment demanded. We have not deliberately set out to build up a foreign trade.

Q. With your capital and your facilities, why do you not build up a foreign trade?

A. We hope to do it, sir.

Q. How long have you been in business?

A. The Pennsylvania Steel Company of New Jersey has been in business since 1901, I think. The Pennsylvania Steel Company has been in business since long before that.

Q. Since 1901? And you have done nothing substantially yet, you say, except in Mexico, towards building up this foreign business?

A. We have sold a great deal of material abroad. We have not had what I call a consistent foreign policy, and I do not think any other steel manufacturer in this country has had. We have been busy with our home markets.

Mr. Reed: You mean to make that statement with no exception, Mr. Jay?

The Witness: I meant with the exception of the Steel Corporation.

By Mr. Dickinson:

Q. Do you think that the capital of your company would be sufficient to carry out that consistent policy that you speak of?

A. I think it would be, yes.

Q. So you have been devoting yourself more to home industries, but there is nothing in the nature of things, or nothing in the capitalization of your company, that would prevent your company building up foreign business, if it turned its attention to it; is that correct?

A. I think that is correct.

Q. And you do not think there is any other hindrance except that—that you have not developed it or sought to develop it?

A. No; I know of no other hindrance.

Q. Suppose your company should go into the foreign business and in competition for that business: Would you suffer any disadvantage in going into that business against the United States Steel Corporation, owing to the fact of the ore control that it has, the ore railroads that it has, and the fact that it also controls subordinate companies that make up a great variety of products, such as the American Steel & Wire Company, the National Tube, the American Bridge and the American Tin Plate Company, and also looking to the percentage of production that it controls in the steel business of this country? How would that operate against you or for you as a competitor?

A. I do not think it would operate to our disadvantage. We would have certain other things that would offset that.

Q. What other things would you have that would offset it?

A. We have the only steel plant in this country which is located on tidewater. That is a very decided advantage. We have Cuban ore, and our cost of production should be, certainly, low enough to enable us to compete with the Corporation in certain lines of business.

Q. And you do not think it is necessary to have as large an aggregation of capital and as large a variety of production, in order to develop foreign business successfully, as the Steel Corporation has; and that other concerns having a much less variety and a much less capitalization could develop the foreign business also?

A. It is a matter of degree, Judge, I should say.

Q. I am asking your opinion in regard to foreign business, and what is necessary, in your judgment, for its development, and as to what would foreclose competition. I would like to have your views on it.

A. As far as our company is concerned——

Q. I am speaking generally, now; not particularly of your company.

A. Will you repeat the question?

(The question was repeated by the stenographer.)

THE WITNESS: What do you mean by "foreclose competition," please, Judge?

By MR. DICKINSON:

Q. What I mean to say is, whether or not a concern of much less capital than the United States Steel Corporation, with less ore holdings, and much less variety of production, could, if it devoted its attention to it, successfully develop foreign competition?

A. Yes; they certainly could.

Q. And our foreign business, in your judgment, does not depend, then, upon the development of such an institution as the United States Steel Corporation?

MR. REED: That is objected to as vague and uncertain, and the question as it stands as almost meaningless, because the——

By MR. DICKINSON:

Q. Do you understand the question, Mr. Jay? If not, I will put it again so that you will understand it.

A. I would rather have you put it again, if you will.

Q. From what you have said, and from the facts that you know, and from your experience and knowledge of the steel industry and of the foreign business, has the development in recent years, or would the development in coming years of the foreign business depend upon the existence only of such an institution, in size and variety of production, and capital, as that possessed by the United States Steel Corporation?

A. It would not.

Q. Now, as to this Mayari ore; how long have you been using that?

A. Four or five years.

Q. Take five years ago, the first year you began to sell it; how many tons did you sell?

A. A very small amount. I would rather go back to about three years ago.

Q. I am coming down to three years ago. Give me the information for five years ago, as far as you know it, first.

A. I could not give it to you for five years ago.

Q. It was inappreciable, was it not, so far as the steel industry of this country is concerned?

A. I would have to explain that a little bit.

Q. All right.

A. This Mayari ore was an entirely new metallurgical problem. It was an ore containing nickel and chromium, and we had to pioneer in metallurgical practice in order to find out just what uses it could be put to. Therefore at first we went very slowly, and it was not until three years ago that we commenced to sell it, you might say, in commercial quantities.

Q. Then, until three years ago, its effect upon the steel industry was inappreciable, was it not?

A. Absolutely inappreciable.

Q. Three years ago; that would be 1910. That is the first year you have in mind, is it not?

A. Yes.

Q. How much did you sell of that?

A. I should say about 60,000 tons, probably.

Q. Let me see; 1910 would be four years ago, would it not?

A. Three years ago, would it not? This is 1913.

MR. REED: As long as you call it 1910, it does not matter how long ago it was.

By MR. DICKINSON:

Q. Very well; we will call it three years ago. Now, take 1911; how much did you sell?

A. I should say three or four hundred thousand tons, probably.

Q. And in 1912?

A. I had rather not give you the amounts.

Q. Would you object to answering whether it was greater in 1913 than it was in 1911?

A. As to Mayari steel?

Q. Yes.

A. It was greater; it has been increasingly greater right along.

Q. Greater in 1913 than in 1912?

A. No; I should say about the same; that is due to the fact that business has been falling off lately.

Q. What products do you make of this Mayari steel?

A. We make billets, slabs, blooms, rails, forgings, angle bars, that is, fish plates.

Q. Has your total tonnage, including Mayari and others, increased from 1910 to 1913?

A. In 1913 it was greater than in 1910.

Q. In total tonnage, now?

A. Total tonnage, and in 1912 it was less than in 1910.

Q. Do you object to giving the figures?

A. No.

Q. Well, just give those, will you?

A. I am giving it to you of ingot production. In 1910 we produced 844,849 tons of ingots.

MR. REED: Gross tons?

THE WITNESS: Gross tons. In 1912, 807,180 tons. In 1913, 708,776 tons.

By MR. DICKINSON:

Q. Take 1910; what percentage was that of the total billet production of the United States?

A. Of the total ingot production, 3.3 per cent.

Q. Take the next year?

A. 1912, it was 2.6 per cent. 1913, 4.2 per cent., through September.

Q. This Mayari ore, in comparison with the whole billet production of the United States was very inconsiderable, was it not?

A. Yes, in comparison with the total.

Q. Its effect upon the whole of the steel industry taken as a percentage was very inconsiderable, was it?

A. Yes, as a whole.

Q. As to all the products?

A. Yes, sir.

Q. Now, you say that you made billets and slabs and blooms, rails and forgings; are these billets and slabs and blooms and forgings and rails used for any particular purpose, or is that steel used and sought for for any purpose that differentiates the demand for it from other steel?

A. More sought for in any place where steel is put to unusual demands, except, of course, in the case of rails. In the case of rails we think we make a rail which has greater safety because it has better wearing qualities.

Q. As a matter of fact hasn't your rail production fallen off in the last two or three years? Give your rail production from 1901 on.

A. In 1901 we produced 438,518 tons. In 1905 we produced 466,519 tons.

Q. How about the intervening years?

A. I haven't got the intervening years. I have got it just in periods. Suppose I cut off the odd amounts and only give the thousands.

In 1908 we produced 212,000 tons.

In 1910 we produced 425,000 tons.

In 1911 we produced 348,000 tons.

In 1912 we produced 386,000 tons.

In 1913, through June, 226,000 tons.

Q. Will you give the ingot production for the same years in gross tons?

A. In 1901, 777,000 tons.

1905, 844,000 tons.

1908, 451,000 tons.

1910, 845,000 tons.

1912, 807,000 tons.

1913, through September, 708,000 tons.

Q. Is that the Maryland and Pennsylvania both you are giving?

A. Yes, sir.

Q. The combined production?

A. Yes, sir.

Q. You stated that the competition of the Steel Corporation has been fair?

A. On the whole, yes.

Q. You mean so far as it has come within your personal knowledge?

A. Yes.

Q. You do not know anything beyond that? You do not speak beyond what you have personal knowledge of?

A. Only my personal knowledge.

Q. Now, you spoke of individual cases where, owing to the large size of the Steel Corporation, it operated injuriously to your company. Please develop fully what you mean by that.

A. I cannot give you any specific instance, but it stands to reason that a company as large as the Steel Corporation can, through the extension of credit and in other ways, have means of securing business which a smaller corporation has not got.

Q. Suppose a company in your line of business should carry cash on deposit ranging from seventy millions to eighty millions of dollars, would that give them an advantage in strength over competitors?

A. I should think that would be self-evident.

Q. How?

A. I should think that would be self-evident, that it would.

Q. Take the American Bridge Company. Is it not a fact that the association of that Bridge Company with a corporation, getting its structural material from that corporation, with the corporation's ownership of ores and railroad transportation, gives an advantage to that company over you wherever you come in competition with it?

MR. REED: Will you please repeat that question?

(The question was repeated by the stenographer.)

MR. REED: If you understand it, Mr. Jay, answer it.

THE WITNESS: I should think the principal advantage there lay in railway transportation.

By MR. DICKINSON:

Q. What advantage would it have in getting its structural material from a concern controlling such ore as the Corporation has, its ability to permit this company, if it chose, to go into competition and take business?

A. I do not think the ore supply, so far as we are concerned, would have any weight whatever. I think we have just as good an ore supply for our needs as the Steel Corporation has for its needs.

Q. But you do think that the question of railroad transportation would be an advantage?

A. That is one factor they have got and we have not.

Q. And a disadvantage to you as a competitor?

A. Yes, if all other conditions were equal.

Q. Now, you say that in your conclusions that you have expressed, the Gary dinners tended to stop wild fluctuation. This fluctuation would have come about, would it not, by people competing for business and making prices so as to get business, would it not?

A. Yes.

Q. And you think it stopped that?

A. I think it stopped unreasonable competition.

Q. Then it did to that extent stop competition?

A. Yes.

Q. Then you spoke of these open societies or associations that you belong to. Will you please give the dates when those several ones were organized?

A. The Bridge Builders' Society was organized April 7, 1911; the Manganese Track Society, May 17, 1913; the Manganese Steel Founders' Society, December 12, 1912, and the Steel Founders' Society of America, having to do with carbon castings, June 4, 1909.

Q. And notwithstanding whatever steadying effect may have been brought about by the Gary dinners, you and your associates considered it desirable to form associations of this character?

A. Yes.

Q. You spoke of the prices of your company before you were general manager. Now, from whom did you get the prices at which you sold?

A. I got them from the general manager of sales.

Q. He gave them to you?

A. Yes.

Q. And you followed those prices?

A. Yes.

Q. Did you have any discussion about it one way or the other?

A. Very little.

Q. Who was the general manager?

A. Howard F. Martin.

Q. What period did that cover?

A. From 1902 to 1912.

Q. You do not know of your own knowledge what he may have done in conjunction with competitors when you were not present?

I mean of your own knowledge; I do not mean what he told you.

A. Only what he told me.

MR. REED: And what you saw?

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. You, then, did not attend the meetings of the general managers?

A. No.

Q. You did not attend the presidents' meetings?

A. No.

Q. And you did not attend the meetings of the higher officers?

A. No.

Q. And of your own knowledge you do not know what they did?

A. No.

Q. And you took prices as they were given to you by the general manager, and exacted those prices?

A. Yes.

MR. REED: Is "exacted" the word you meant to use?

MR. DICKINSON: Well, if you want to say asked and got them, I will put it that way, if that suits you better.

THE WITNESS: We did not always get the prices.

By MR. DICKINSON:

Q. Somebody else got the business?

A. Yes.

Q. But those were the prices the general manager gave to you?

A. Yes.

Q. As a matter of fact, in your company and similar companies, did the sales agent have any discretion as to prices?

A. Oh, he had some discretion, but the general tendency undoubtedly all through the steel business is to centralize the making of prices in one central office. That of necessity has to be so.

Q. What proportion of your output was in steel bars? Have you got it for various years?

A. I can give it to you for one year.

Q. Give it, please, for whatever year you have.

A. For the year 1912, 11.9 per cent. would be our product of bars or merchant mill material. That is the Pennsylvania Steel Company of New Jersey, taking the Maryland and Pennsylvania together.

Q. What tonnage is that?

A. I have not got it in tonnage.

Q. How about your plain structural material?

A. That is included in that.

Q. That is included in the steel bars?

A. That is included in our merchant mill products.

Q. But take your plain structural material separately; was not that negligible as compared with your other products?

A. Yes.

Q. You were asked about the Walker tables, about the prices there given. You understand, do you, that these are average prices as given in this table? Did you understand that?

A. No, sir; I did not understand that. I thought they were Iron Age quotations.

Q. You thought they were prices as of a particular day, did you, or a particular time?

A. A particular week.

Q. Assuming that they are average prices, do you now have sufficient knowledge to speak from memory to say how far your average prices would vary from those average prices?

A. They would have to be very close to them or we would not get any business. If those prices represented truthfully the market conditions, our price must have been very close to it.

Q. You do not know whether these average prices do or do not represent it, do you?

A. No.

Q. You have not examined that table and compared it with data with a view to determining that?

A. I have compared it simply with our own particular contracts at that time.

Q. But not your average price?

A. No.

Q. These being average and yours being particular, they would not be comparable, would they, over any special period?

A. I could not say that offhand, without making a calculation.

Q. You do not say that they are comparable?

A. No, sir.

Q. You say you never attended the Gary dinners, I believe?

A. I never did.

Q. Were you a member of any of the committees that were appointed following the Gary dinners?

A. I was not.

Q. You do not know what transpired at those meetings, do you?

A. No, sir.

Q. And you do not know what effect those meetings may have had?

A. No, sir; only by hearsay.

Q. I am speaking of your own knowledge. You do not undertake to speak of them?

A. No.

MR. REED: That is, as to the effect that they had?

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. When you speak of your carrying out, or that you felt it your duty to carry out the general understanding that you

had of the Gary dinners, what do you mean by your general understanding that you were expected to carry out?

A. To talk with our customers, to try to find out the true condition of their business, to try to reason with them against becoming unduly frightened as to the steel market, and to do everything that I personally could to steady conditions.

Q. That is what you mean by that understanding, is it?

A. Yes, sir.

Q. As to prices, you quoted the prices that your general manager gave you, throughout that period?

A. I did.

Q. You said something about your company having been in no combination since 1906. Do you mean to say by that that you know that none of your officers did, or that you yourself did not attend any meetings and had nothing to do with any combination?

A. I myself had nothing to do with any, and I do not think our company did. I know our company did not.

Q. You followed all your officers around, did you——

A. No.

Q. You knew everybody they met and every time they talked with their competitors, and everything they said, and all they did? Did you know that?

A. No.

Q. You do not pretend, then, to know all that, do you?

A. I certainly would have heard of anything of that kind if it had been in existence.

Q. If there had been any private agreement between your officers and officers of other companies, do you mean to say, as a matter of fact, that you certainly would have known that?

A. I think I would have known it.

Q. That is just a mere notion on your part? You do not mean to say——

A. It is my opinion.

Q. It is your opinion. You do not mean to say that you know that somebody would have committed a breach of confidence and told you what they may have been obligated not to tell if there was such an obligation?

A. Our people do not do that.

Q. None of the steel people do that?

A. I said our people did not, sir. You know there are reputable citizens even in the steel business, Judge.

Q. I think so too; very fine people.

MR. REED: You have been keeping that to yourself, Judge.

MR. DICKINSON: Oh, no, not at all.

By MR. DICKINSON:

Q. Who was Mr. Felton?

A. President of our company.

Q. How long has he been president of your company?

A. Since 1901.

Q. Do you know, of your own knowledge that he was a member of any of these Gary committees, or the general committee or any of the subcommittees?

A. Not of my own knowledge, no.

Q. Whatever you may know about that would be hearsay?

A. It would.

Q. And whatever transpired in those committees whether he was present or not present would be hearsay?

A. It would.

Q. Were you a member of or did you represent your company in any of the meetings of any rail pool?

A. I did.

Q. State what period that covered?

A. I think it was 1905 to the early part of 1906; possibly in the latter part of 1904.

Q. Were you a member of the rail committee?

A. I was.

Q. What was the name of that committee; the regular name of it, if you had a name? If it was a deed without a name, you need not christen it.

A. I think we simply spoke of it as the rail committee.

Q. Where was that committee located, or where did they meet?

A. We met in Jersey City.

Q. Where did you live then?

A. I lived in Pelham Manor, New York.

Q. And you went from there to Jersey City?

A. No; I went from the office to Jersey City.

Q. From the office here?

A. Here at No. 71 Broadway.

Q. You went from your office in New York to Jersey City?

A. Yes.

Q. At those meetings what companies were represented?

A. The Pennsylvania Steel Company, the Maryland Steel Company, the Carnegie Steel Company, the Illinois Steel Company, the Lackawanna Steel Company and the Cambria Steel Company.

Q. At those meetings who represented the Carnegie and the Illinois?

A. Mr. Charles W. Baker and Mr. C. C. Cluff.

Q. Who represented the Lackawanna?

A. Mr. H. Barber and Mr. Sanborn Smith sometimes.

Q. Who represented the Cambria?

A. Mr. Frank Washburn.

Q. And did you represent the Pennsylvania and the Maryland?

A. I represented the Pennsylvania and the Maryland.

Q. Where were Mr. Cluff's and Mr. Baker's offices?

A. In New York City.

Q. And the man who represented the Lackawanna, where was his office?

A. New York City.

Q. And the Cambria, New York City?

A. Yes, sir.

Q. And yours, New York City?

A. Yes, sir.

Q. Although all of you were in New York City, you had your meetings in New Jersey, did you?

A. Yes, sir.

Q. How often did you have them?

A. We used to meet every day except Saturday.

Q. So every day except Saturday you would leave New York and go to New Jersey and hold these meetings, would you?

A. Yes, sir.

Q. Well, now, you say you ceased in the early part of 1906 to attend those meetings?

A. Yes, sir.

Q. Just tell us what transpired at those meetings, the earlier meetings in 1905.

A. We would go to the meeting, and each member would have a statistical table in front of him showing tonnage booked by each mill and also the shipments of each mill for the previous month. We would report each day the inquiries we had from all the railroads for rails, and we would exchange that information. We would then each report our freight rates from our mills to destination, and state the price which we expected to quote, which in all cases was the mill price plus the freight added.

Q. From whom did you get your price originally?

A. I could not tell you that, Judge. The price of rails has been at $28 for so long that I do not personally know when it originated.

Q. You got it from some higher officer, did you, when you began to attend these meetings?

A. Yes, sir.

Q. And that was never changed?

A. Never changed, no; it is the same price today.

Q. Now, if it transpired at any of these meetings that any one had sold lower than $28 for standard Bessemer rails, was that matter taken up for discussion?

A. Yes, sir. We would take it up with the man in question, and sometimes there would be very angry discussions over it.

Q. Because he had done that?

A. Yes, sir.

Q. When you began to sell open hearth rails, wasn't there an extra two dollars a ton added for that?

A. Yes, sir.

Q. Was that a constant figure except where there were special chemical qualities in particular orders of rails?

A. In general it was a constant figure, yes.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Did you ever make any agreement for maintaining the price of rails?

A. Never.

Q. Was there any allotment of tonnage from the country among the different manufacturers?

A. I do not know.

Q. Never heard of any, did you?

A. No, sir.

Q. Was there any money pool kept, so far as you know?

A. So far as I know, no.

Q. Did this committee of which you have just spoken act under the advice of counsel?

A. It did.

Q. Reputable counsel—I do not ask the names.

A. The very best counsel we could get hold of.

Q. Did that counsel advise that it was legal?

A. He did. I want to modify that last statement by saying that counsel in question advised us to modify certain ways in which we kept our statistics, and subsequently advised us to discontinue the meetings.

Q. And you acted under his advice right along?

A. We acted under his advice at once.

Q. At once?

A. Yes, sir.

Q. Now, Mr. Jay, in this matter of developing a foreign trade, in your opinion has it been of any assistance to the Steel Corporation to have a diversity of products?

A. Yes, sir.

Q. Has that been so with regard to its foreign trade?

A. Yes, sir.

Q. Do you believe that that is any advantage over a company which has not the same diversity?

A. A great advantage. You can make up a mixed cargo for shipment.

Q. Mr. Bolling reminds me that you testified that a small concern could develop a foreign trade to a degree. I want

to ask you what you mean by the use of the words "to a degree."

A. It stands to reason that a large concern with a great diversity of products and a great deal of capital behind it and a great deal of tonnage which they can withdraw from the home market without seriously affecting their home consumption, can establish a business abroad more easily than can a concern which has not got those advantages.

Q. There was some question asked you about the dictation to you by your general manager of sales of the prices which you in your New York office were to ask; and I want to ask you whether, although you did not make prices yourself, you were in a position while you held that office of knowing what the trend of prices was, both of your company and of your competitors?

A. I certainly was.

Q. When you spoke of the course of prices, you spoke of it from the standpoint of a man who saw them quoted?

A. Yes; and very frequently when I would know a price which had been quoted on certain particular business, I would consult with the general manager of sales over the telephone, and our action would be the result of that joint conference as to whether we would lower the price or whether we would not lower the price.

Q. Now, in this transaction which you had with the general manager of sales, was the making of prices ever controlled, so far as you know, by agreement with a competitor?

A. No, sir.

Q. And if you did not, as Judge Dickinson suggested, follow around the various officers of your company from day to day and night to night, were you in such a position in your New York office as to observe whether you and your competitors were uniformly quoting the same price?

A. I would know it very quickly.

Q. You would know it if that was the case, wouldn't you?

A. Yes, sir.

Q. Was it the case?

A. No, sir.

MR. REED: That is all.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Do you mean to say that throughout periods of time that you and your larger competitors did not quote substantially the same price?

A. Substantially, yes, or we would not have gotten the business. In other words, we would have to quote the market price if we wanted to get the business.

Q. And they would quote the market price?

A. Undoubtedly.

Q. And that would run over long periods of time, where the prices would be the same?

A. Not over long periods of time.

Q. Of course we may differ about long periods of time. Would you say weeks at a time in certain products and in certain years?

A. Yes, sir.

Mr. Dickinson: That is all.

Mr. Reed: I think that is all, Mr. Jay. Thank you.

EDWARD L. PARKER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. General manager of the Columbia Steel & Shafting Company.

Q. How long have you been general manager of that company?

A. Since early in 1911.

Q. What was your position with it before that time?

A. I was connected with it in a rather close way, but through another company, a subsidiary company at Detroit, a selling organization, but in position to be in very close touch with the manufacturing end, which the Columbia Steel & Shafting Company was and still is.

Q. Then how long have you been familiar with the purchases that have been made by the Columbia Steel & Shafting Company?

A. Since early in 1909.

Q. Does that company buy bars?

A. Yes.

Q. In what quantity?

A. Ranging from 25,000 to 50,000 tons a year.

Q. Where are these bars used? Where are your company's works?

A. We have one plant at East Carnegie, and one at Rankin, Pennsylvania.

Q. Both in Allegheny County?

A. Both in Allegheny County and both adjacent to Pittsburgh.

Q. From what companies do you buy your bars?

A. The Carnegie Steel Company, the Republic Iron & Steel, and in very modest amounts from the Crucible and the American Steel & Wire Company.

Q. About what percentage of your purchases are made from the Carnegie Steel Company?

A. That varies. I would say over the period since 1909 it would average at least from 65 to 75 per cent.

Q. Are your purchases made on a competitive basis?

A. Very largely, yes.

Q. Is there any competition between the Republic and the Carnegie Steel Company and these other companies?

A. The competition is principally between the Republic and the Carnegie. Our purchases from the other two companies are not necessarily competitive, for the reason that the lines are very small.

Q. They are special qualities?

A. Special qualities. The competition is mainly between the Carnegie and the Republic.

Q. What kind of competition is that?

A. Price is one kind of competition; the ability to handle our particular class of business and sufficient capacity on account of our enormous consumption of bars.

Q. Do you ask quotations from these companies before you place your orders?

A. We generally contract for our tonnage and we take bids on that contract.

Q. Is there any competition in the matter of price?

A. Yes.

Q. In those bids?

A. Yes.

Q. And competition in the matter of delivery?

A. Yes.

Q. And in quality?

A. To some extent.

Q. Quality to some extent?

A. Yes.

Q. Is there any evidence of price fixing between these companies for your business?

A. Not so far as we know or can find.

Q. Not so far as you can see?

A. Not so far as we can see.

Q. You believe there is genuine competition there for your business?

MR. DICKINSON: I object to that as a mere conclusion of the witness based on unproven facts.

THE WITNESS: Yes.

By MR. REED:

Q. Has that been so since you first became acquainted with the purchases of your company in 1909?

A. Yes.

Q. Is there any bigger manufacturer of steel shafting than your concern?

A. There are two.

Q. Who are they?

A. The Jones & Laughlin Steel Company and the Union Drawn Steel Company. The latter is located at Beaver Falls.

Q. Is the Steel Corporation in the business of making shafting?

A. Through the American Steel & Wire Company they are.

Q. Do they make much of it?

A. From what information I have, and from what I can see, I imagine they make about one-third to one-half of what we do.

Q. That is, they are about one-third or one-half in that particular product?

A. About one-half or one-third of what we are.

Q. Is there competition in the business of steel shafting?

A. Yes.

Q. What competitors have you in that business?

A. Jones & Laughlin Steel Company, the Union Drawn Steel Company, the American Steel & Wire Company and the Fitzsimmons Company. Do you want them all?

Q. Those that you can remember in a short time.

A. They are all competitors, and the Cumberland Steel Company.

MR. DICKINSON: Where is that?

THE WITNESS: At Cumberland, Maryland. Those are our principal competitors. There are some smaller ones. There are about fourteen manufacturers in that line of business, and, of course, they are all competitors.

By MR. REED:

Q. Is that competition restrained by any pool or price agreement?

A. No, sir.

Q. Has that been so since 1909, too?

A. Yes.

Q. And before?

A. As far back as I have any direct knowledge of the operation of our business.

Q. There was a pool in steel shafting back as far as 1903 or 1904?

A. I understand there was in 1903 or 1904; 1902, 1903, 1904, I believe.

Q. Has there been any pool since 1904, so far as you know?

A. No, sir; there has not.

Q. Speaking of that competition, can you give us any idea of the severity of the competition in steel shafting?

A. We began business in 1900, late in 1900. The gross spread in our business at that time was about $40 a ton.

Q. What do you mean by gross spread?

A. The difference between the cost of our raw material, the steel product, and our selling price of the finished material. I speak now exclusively of base price, based on raw material and our products.

MR. DICKINSON: How much did you say, a ton?

THE WITNESS: Approximately $40. That has gradually receded until to-day it is between $7 and $8 per ton.

By MR. REED:

Q. Has that shrinkage been gradual or was it sudden, at any particular moment?

A. There have been some sudden fluctuations, but on the whole the shrinkage has been gradual.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Have you not declined to give the Government any information that you might have in regard to the issues in this law suit prior to your going on the stand?

A. I have.

Q. You state that since 1909 you have been buying 65 to 75 per cent. of your requirements from the Carnegie Company?

A. Yes, sir.

Q. Did you come here from Pittsburgh without subpœna?

A. Did I come here without subpœna?

Q. Yes.

A. Why, I was asked to come here by Mr. Reed.

Q. Yes; without being subpœnaed to come?

A. Yes, sir.

Q. And do you expect your expenses to be paid by the Corporation?

A. I have not given that any thought, sir.

Q. You have not given that any thought?

A. No, sir.

Q. Mr. Parker, prior to 1909 what proportion of your requirements did you buy from the Carnegie Company? Take the year 1908, for instance.

A. I do not know that I am prepared to answer that in definite figures or percentages, but since 1905, anyway, I am prepared to say that the majority of our business has been placed with the Carnegie Steel Company.

Q. Under contracts?

A. Generally; yes, sir.

Q. When was your last contract made with the Carnegie Company?

A. I think in June.

Q. Of 1913?

A. Yes, sir.

Q. Did you make any other contracts in 1913 with the Carnegie Company?

A. I think there was one made early in the year. I am not sure of that, however.

Q. Take that June contract: How much did you buy from them under that?

A. 10,000 tons.

Q. At what base price?

A. $1.40.

Q. For bars?

A. Yes, sir. Our purchases are all of steel bars.

Q. How did that differ, if at all, from the then quoted market price on bars?

A. That was the market.

Q. That was the market price?

A. Yes.

Q. Was that the market price quoted in the Iron Age?

A. Yes.

Q. At the time that you made that contract with the Carnegie Company, from what other concerns, if any, did you get bids?

A. That particular contract was not competitive as far as any other manufacturers were concerned.

Q. Then take the contract in the early part of the year: How much did you buy under that contract?

A. I say that we made a contract early in 1913. We made a number of contracts in the period beginning late in 1911——

Q. 1911?

A. Yes; from late in 1911 up until either the latter part of 1912 or the early part of 1913. There were at least six or eight, possibly more, contracts made in that period. I do not just recall any of the dates.

Q. Take the year 1911. Do you know how many contracts you made in that year?

A. No, sir.

Q. You do not know?

A. No, sir.

Q. Do you know with what companies you made them for that year?

A. Yes.

Q. Just state what companies they were.

A. The Carnegie Steel Company and the Republic Iron & Steel Company.

Q. Did you make more than one with the Carnegie for that year?

A. We generally make contracts for about three months; three to four months; sometimes six months, depending upon market conditions. I believe in 1911 there were three or four contracts made with the Carnegie.

Q. In the aggregate how much did you get from them?

A. You mean during that year?

Q. Yes.

A. Probably between 12,000 and 15,000 tons in 1911.

Q. Now, as to the Republic Iron & Steel Company: How many contracts did you have with them?

A. Probably the same number.

Q. How much did you get from them?

A. Possibly 10,000 tons.

Q. Did these contracts cover the same periods or different periods?

A. Not necessarily the same periods.

Q. I am just asking what they did cover; not what they might or might not necessarily cover.

A. As a rule they did cover the same periods.

Q. Did they begin at the same time and expire at the same time, as a rule?

A. As a rule, they did.

Q. That is to say, they were made at the same time, were they?

A. Yes, sir.

Q. Were the prices the same?

A. Not in all cases.

Q. In some of them were they the same?

A. In some cases they were.

Q. How about the majority of them?

MR. REED: You are asking now the bids or the final prices at which the contracts were made?

MR. DICKINSON: The prices in these contracts that he made with the Carnegie and the Republic.

THE WITNESS: I think in the majority of cases, speaking of contracts, our contracts with the Carnegie Steel Company have been at a less price than those with the Republic.

By MR. DICKINSON:

Q. I am asking now for the year 1911. You understand that, do you?

A. Yes, sir. I do not know that I am prepared to answer that. I do not remember.

Q. You do say, however, that mostly these contracts in respect to those two companies covered the same periods of time?

A. Yes, sir.

Q. And were let at the same time?

A. Yes.

Q. Did you take bids from them at the same time?

A. Yes, sir.

Q. Could the Carnegie supply all of your requirements?

A. They could; yes, sir.

Q. At any one time?

A. Except in unusual periods, such as——

Q. Take the year 1911: Was there any time in 1911 that the Carnegie could not have supplied you?

A. No, sir.

Q. Could the Republic supply you?

A. They could not, for the reason that they do not make our entire range of sizes or compositions.

Q. When you took bids, would the bids be for a contract covering in some instances your entire range?

A. Yes; they would, with the Carnegie Steel Company.

Q. And you would not submit that to the Republic, would you?

A. Not for the same range of sizes.

Q. Then when you took a bid from the Carnegie covering all the ranges of sizes, you would not submit that to the Republic at all?

A. No, sir.

Q. And it was that kind of a contract that you let to the Carnegie, was it?

A. Yes, sir.

Q. Take the Republic. When you took bids from the Republic they included a smaller range of sizes than the bids you took from the Carnegie?

A. Sometimes; yes, sir.

Q. Would you submit that to the Carnegie to be bid upon?

A. Yes, sir.

Q. Do you know for the year 1911 as to any of these particular contracts what prices were bid by these respective companies? Can you give prices from memory?

A. I remember one particular contract, May, 1911.

Q. That contract is in writing, is it not?

A. Yes.

Q. And with what company is that?

A. The Republic.

Q. What time was that?

A. In May.

Q. May of what year?

A. May, 1911.

Q. What tonnage was it?

A. I do not recall the tonnage.

Q. What was the price on bars?

A. $1.25.

Q. What was the general market price at that time?

A. That contract was made with us several days before the market was quoted at that price. The market price was $1.40 when that contract was made.

Q. When that contract was made it was $1.40?

A. Yes.

Q. Was there a break in price following that?

A. I believe there was.

MR. REED: I should think there would be.

By MR. DICKINSON:

Q. The market price, then, was quoted as $1.25, was it?

A. Immediately after.

Q. And that was the figure at which your contract was let?

A. Yes.

Q. Had the Carnegie bid on that?

A. Not on that particular contract, no.

Q. Take the year 1912: From what concerns did you buy in that year?

A. The Carnegie Steel Company and the Republic Iron & Steel Company; that was all, just the two companies.

Q. How many contracts did you make with the Carnegie that year?

A. There were quite a number, five or six, I would say.

Q. How many with the Republic?

A. The same number.

Q. Five or six?

A. Yes, sir.

Q. How much did you get from the Carnegie altogether that year?

A. I would say from memory about from 20 to 23 thousand tons.

Q. How much from the Republic?

A. From seven to ten thousand tons.

Q. Did those contracts with the Carnegie cover all this variety that you speak of in bars?

A. Yes, sir.

Q. And those with the Republic, then, covered a less variety, didn't they?

A. Somewhat, yes.

Q. You said they did not make it——

A. They do not make the entire range of sizes we require.

Q. Those of the Carnegie covered the entire range and those of the Republic covered a less range?

A. Yes, sir.

Q. Are the facts the same in regard to the contracts with the Carnegie, and soliciting bids for 1912, as you stated they were in 1911?

A. Yes, sir.

Q. Now, do you remember the prices at which any of those contracts were made with the Republic in 1912?

A. I only remember the market conditions during that period, which were fluctuating; I could not give the price of any one contract, I said.

Q. You could not give the price of contracts. Could you give the bids on particular contracts?

A. No, sir; not from memory.

Q. You would not attempt to do that?

A. No, sir; I cannot remember.

Q. Nor the variation, if any?

A. I know at times there were variations.

Q. At times there were?

A. Yes, sir.

Q. But for this year, 1912, when these particular contracts were made with the Republic, can you say that there was a variation in bids?

A. Yes, sir.

Q. Just state now; take the first contract. You said there were five or six; when was the first one made in 1912?

A. I cannot give you dates.

Q. About what time?

A. Probably early in the year 1912.

Q. How much tonnage did that cover?

A. I would not be able to state that from memory.

Q. At what price did you let that contract, or did you take that contract?

A. I could not state that either, because the prices were fluctuating so rapidly during that time.

Q. Can you state what the bids were on that?

A. No, sir.

Q. Take the second one; when was that made in 1912?

A. Probably two or three months after the first.

Q. Do you know the prices at which that was let?

A. I do not remember; no, sir.

Q. Do you know the bids that were made on it?

A. No, sir; I would not remember them.

Q. Can you remember the bids for any one of those contracts with the Republic. If so, state which one it was.

A. Not on any particular bids, I cannot; we make so many contracts it is quite impossible to recall dates or prices.

Q. Your recollection is very general, isn't it, on that?

A. Yes, sir.

Q. How long have you been making contracts; how many years back?

A. Since 1909.

Q. Let us take the year 1910, then; from whom did you buy in 1910?

A. Carnegie Steel Company and Republic Iron & Steel Company.

Q. How much did you get from the Carnegie?

A. I might add to that, in 1910 we did buy some steel outside; it came through a broker or a jobber.

Q. Take the Carnegie Company; how much did you buy from the Carnegie?

A. From memory I would say at least 20,000 tons.

Q. How much from the Republic?

A. From five to seven thousand tons.

Q. How many contracts did you have with the Carnegie?

A. During 1910?

Q. Yes.

A. I could not answer that as to the number.

Q. Several?

A. Several; yes, sir.

Q. With the Republic?

A. Several with them.

Q. Did all your contracts with the Carnegie cover all of your various requirements in sizes and kinds of bars?

A. Yes, sir. I might modify that. There are some of our requirements that the Carnegie Steel Company do not make, but it involves but very little tonnage.

Q. But they made things that the Republic did not?

A. Yes, sir.

Q. And these contracts with the Carnegie for 1910 covered things that the Republic did not make?

A. Yes, sir.

Q. Well, now, as to those you dealt directly with the Carnegie, did you; got their price and dealt with them?

A. Yes, sir.

Q. And did not take a price from anybody else?

A. The fact that the Republic Iron & Steel Company could not make our entire range of sizes would not necessarily mean that we would not deal with them in our contracts. They merely quoted on so many tons of steel bars within their range. That is the way quotations were generally made us.

Q. Did you ask from the Carnegie quotations on the whole business?

A. Yes, sir, as an entirety, but we would not state what range we required, because we knew what range of sizes they were equipped to furnish us.

Q. As a matter of fact, when you made these contracts with the Carnegie people covering all the requirements of the various kinds that the Carnegie people made, did you take any bids in the year 1910 on those contracts from any manufacturer other than the Carnegie?

A. Yes, the Republic Iron & Steel Company.

Q. You took from the Republic Iron & Steel Company for the year 1910, did you?

A. Yes, sir.

Q. On each one of those contracts with the Carnegie?

A. I would say yes.

Q. Do you remember yes; are you speaking from memory or knowledge?

A. All of our steel has been bought competitively. Now, we might make a contract with the Carnegie Steel Company for a six months period, and with the Republic Iron and Steel Company for a three months period, or *vice versa*, and when that short time contract would run out we would naturally renew it with either one or the other, but those contracts were generally competitive.

Q. When you renewed it with one or the other, was that just a continuation of that contract?

A. At times; yes, sir.

Q. Without any further bidding?

A. That has been true, I think, in some cases.

Q. Was that true at various times in these various years?

A. That might have been true in several instances.

Q. Well, it was true, wasn't it, in several instances?

A. Yes.

Q. Now, take your purchases from the Republic Iron & Steel for the year 1910: Do you remember any base price upon which you made any contract with the Republic for that year?

A. No, sir.

Q. Do you remember the bids that were made upon any of the products that were included in any of those contracts?

A. No; I do not, sir.

Q. Do you remember the amount that the base price varied on any of those contracts?

A. I remember that there was a variation in price on a number.

Q. But you cannot give what it was?

A. Never more than a dollar; a dollar a ton; I mean by that 5 cents a hundred pounds.

Q. On others there was no variation, was there?

A. At times; yes, sir.

Q. How long times?

A. I do not know that I can answer that.

Q. Would it run over periods of weeks?

A. Over periods of weeks; yes, sir.

Q. And months, even, in various years?

A. Yes.

Q. When there was, there would be no variation from the published statement, the base price?

A. I do not know that it would run for periods of months.

Q. It would run for periods of weeks?

A. It would run for periods of weeks; yes, sir.

Q. All the manufacturers would bid the same price so far as your business brought you in contact with them?

A. So far as those two manufacturers are concerned.

Q. Well, now, without going into detail in reference to 1909, would your answers be substantially the same as to bids and contracts as they have been in regard to 1911 and 1912?

A. Yes, sir, and 1910.

Q. In that question, when I used the expression, "bids and contracts" I meant as to the matter of soliciting bids and making contracts, I do not mean as to the particular purchases for the various years. Did you understand it that way?

A. Yes.

Q. Now, back of 1909 what did you have to do with buying for this company?

A. Nothing; I had nothing to do with the purchases of the company.

Q. Back of 1909?

A. No, sir.

Q. Then whatever you may have said, if anything, in regard to contracts for purchase and competition in respect of the same back of that time, you do not know of your own knowledge?

A. No, sir.

MR. REED: I do not recall having asked him about any purchases prior to 1909. I do not want to see him guilty of introducing hearsay evidence.

MR. DICKINSON: I was not sure really whether he had or not. Therefore I put it conditionally.

By MR. DICKINSON:

Q. You stated that the spread between the cost of your raw material and your prices for your finished product in 1900 was $40 per ton?

A. Yes, sir.

Q. Now what was the price then of bars?

A. $40.

Q. In 1900?

A. I believe it was 1900, yes.

Q. The price was $40?

A. Yes.

Q. You mean all of 1900 it was $40?

A. I do not think it was; no, sir; I think late in 1900 the price dropped to nearly $20. However, I am not familiar with the actual figures at that time.

Q. But you did make a statement in regard to the spread?

A. Yes. I know that at one time during 1900 steel bars sold for about 2 cents.

Q. When you stated that the spread in 1900 between the raw material and your selling price was $40, were you stating matters that you yourself were familiar with or not? I want to know how far you committed your own knowledge in that statement?

A. I was not with the company at that time; I came with it in 1902, but I have knowledge of those conditions through records.

Q. When did you examine those records?

A. Not recently.

Q. Well, how many years since you examined them?

A. Probably two or three.

Q. What was the object of examining them?

A. A matter of general information as to what had transpired in this industry.

Q. You did not make those records yourself?

A. No, sir.

Q. Do you know who did make them?

A. I do not recall.

Q. You do not know anything about their accuracy?

A. No, sir; I do not.

Q. So it is only from those records then that you made that statement?

A. Yes.

MR. DICKINSON: Then we object to his statement as being based upon secondary evidence and as incompetent.

By MR. DICKINSON:

Q. When did you first become familiar with the prices, from your direct personal contact with the business?

A. You mean the sales end of our business? The selling price?

Q. Yes.

A. In 1909.

By MR. REED:

Q. Just one question. You stated that you refused to discuss your testimony with Government counsel before taking the stand. Is your sympathy for the Steel Corporation caused by the ownership of any stock or bonds of it or of any of its subsidiaries?

A. No, sir.

(Whereupon an adjournment was taken until to-morrow, Wednesday, November 12, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND NINTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Wednesday, November 12, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

LOUIS C. McKINNEY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. McKinney?

A. Titusville, Pennsylvania.

Q. How far is that from Pittsburgh?

A. 151 miles north.

Q. What is your occupation?

A. President of the Titusville Iron Company.

Q. How long have you been president?

A. Since July, 1910.

Q. Since you became president of that company in July, 1910, have you been familiar with its purchases of raw materials?

A. Yes, sir.

Q. What product does the Titusville Iron Company make?

A. Boilers and oil well machinery; that is, power boilers and heating boilers.

Q. What steel supplies does it principally buy?

A. Boiler plate and boiler tubes.

Q. From what companies, if any, do you ask quotations or receive quotations on plate?

A. We receive quotations from the Lukens Iron & Steel Company, Worth Brothers, Carnegie Steel Company, Cambria, Carbon, and occasionally the Allegheny Steel.

Q. In what way do you get these quotations? That is, do you get them by telephone or by letter or by word of mouth from salesmen?

A. As a rule, verbally from the salesmen.

Q. How often during the year do you make purchases of plate?

A. As a rule, two or three times.

Q. How do the quotations on plate which you receive range in price, or are they uniform?

A. They vary.

Q. The quotations vary?

A. There is a difference in the quotations from the different concerns.

Q. Is that difference substantial?

A. At times it is quite a bit.

Q. What is the range; that is, how much per ton?

A. From five cents to fifteen cents a hundred.

Q. That is, from one to three dollars a ton?

A. Yes.

MR. DICKINSON: On what stuff is that?

THE WITNESS: Plate.

By MR. REED:

Q. Have you ever observed any evidence of a combination to fix prices among the different concerns that make quotations to you?

MR. DICKINSON: This is objected to as calling for a conclusion of the witness based upon facts existing in his own mind and not shown.

THE WITNESS: No.

By MR. REED:

Q. Do you feel that you get the benefit of genuine and unrestricted competition for your purchases?

MR. DICKINSON: The same objection.

THE WITNESS: Yes, sir.

By Mr. Reed:

Q. As to your welded tubes, Mr. McKinney: You use a welded boiler tubing, I believe?

A. Yes, sir.

Q. About how many feet of welded boiler tube do you buy in the course of a year?

A. From 800,000 to 1,000,000 feet.

Q. And from what companies do you get quotations on tubes of that kind?

A. The Monongahela, the Allegheny and the National Tube.

Q. Do you mean the Allegheny Steel Company?

A. Yes.

Q. And the National Tube Company?

A. Yes. I think that the Allegheny is the same as the Reliance.

Q. The same as the Reliance Tube Company?

A. Yes; I think they are the same concern.

Q. Are your purchases of welded boiler tube made on a competitive basis?

A. Yes.

Q. Do the prices that are quoted to you vary or are they uniform?

A. They vary.

Q. Do you buy any seamless tubes?

A. Very few.

Q. You do buy some, do you?

A. Yes.

Q. From what companies?

A. Some we buy from Shelby, I think it is, and from the Ohio Seamless Tube Company.

Q. How about the quotations on those; do they vary?

A. Well, we just buy those as we have a call for them; the number is very small.

Q. Do you buy sometimes from one and sometimes from the other company?

A. Yes.

Q. On bids also?

MR. DICKINSON: He didn't say that; that is objected to. He did not say he got any bids.

THE WITNESS: I was going to explain that. The lots are so small that the purchasing agent attends to that himself.

By MR. REED:

Q. And you have not much acquaintance with the purchases there?

A. No, they are so small.

Q. About what tonnage of plates do you buy each year?

A. Four to six thousand tons.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You have declined to give counsel for the Government any information that you might have in regard to the issues in this cause, have you not?

A. I told the gentleman here that I preferred not to talk.

Q. Well, you declined to talk?

A. I just preferred not to talk.

Q. Well, the result of it was that you declined?

A. He did not insist or anything else.

Q. But you meant that to be a declaration of your position in the matter, did you not?

A. Yes.

Q. And he accepted it as such?

A. Yes.

Q. Were you subpoenaed to come here, or did you come without subpoena?

A. Without subpoena.

Q. Do you expect your expenses to be paid?

A. I have not considered that at all.

Q. Well, Mr. McKinney, take plate, in the year 1910, which is the first year covered by your testimony, is it not?

A. Yes.

Q. From whom did you buy plates that year?

A. Principally from Worth Brothers.

Q. Anybody else?

A. We may have bought a little from other mills; I think probably we got a little from the Allegheny.

Q. How many separate purchases did you make in the year 1910 from Worth Brothers?

A. I think I only made one contract.

Q. Was it a written contract?

A. Yes.

Q. What tonnage did it cover, of plates?

A. That I couldn't say.

Q. Did you make the contract yourself?

A. We do not always make a contract.

Q. No, but did you make that contract?

A. I believe I did.

Q. Did you see it?

A. Yes.

Q. And you do not know the amount of plate it covered?

A. No; I do not recall.

Q. Was that the only written contract you had that year?

A. I believe it was, yes.

Q. Could you not approximate the tonnage?

A. It probably ran from 1,500 to 2,000 tons, I should say.

Q. Now, you stated that you got from 4,000 to 6,000 tons; do you mean now or in 1910?

A. I did not become president of the company until July, 1910.

Q. Did you have any connection with it before that?

A. Only as a director.

Q. You had nothing to do with the purchases before July, 1910?

A. No, sir.

Q. What you have said, then, in regard to prices and competition, as of your own knowledge, is since July, 1910?

A. Yes.

Q. Now, then, after July, 1910, how much was purchased of plates by your company during 1910?

A. I should say probably from 1,500 to 2,000 tons.

Q. Was that gotten principally from Worth under this contract that you spoke of?

A. Yes; that is Worth's contract.

Q. What did you pay?

A. That I cannot recall.

Q. You have no recollection about the price?

A. No, not in that time.

Q. None whatever?

A. No, sir.

Q. You say you do not know whether you made that contract or not?

A. In all probability I made it.

Q. But you are speaking now from probabilities and not from recollection.

A. I will say, then, that I made it.

Q. You say you made it because you recall that you did make it?

A. Yes.

Q. Do you state that as a fact, that you did make it?

A. Yes.

Q. How do you come to that knowledge? You said a while ago that you did not know.

A. Well, if the contract was made after July I made it.

Q. Then you say that you did make that contract?

A. Yes.

Q. But you cannot give the price?

A. No.

Q. Nor approximate the price?

A. No.

Q. Can you tell any bids that were made upon the plates covered by that contract?

A. No, no exact prices.

Q. Have you any recollection in regard to bids and who made them?

A. I think the Carnegie's representative made a verbal bid.

Q. You say you think so; do you know whether he did or not?

A. Well, he called there regularly— -

Q. I didn't ask about regularly.

MR. REED: Let him finish his answer.

MR. DICKINSON: Have you finished? Do you want to say anything more?

THE WITNESS: I will say that he submitted a bid.

By MR. DICKINSON:

Q. To you?

A. Yes.

Q. What was the quotation?

A. I cannot recall what the price was.

Q. Can you give any idea what it was?

A. No, sir.

Q. Who else submitted a quotation on that contract?

A. I will not say that anybody else did.

Q. You do not think anybody else did?

A. No.

Q. So, under that contract made for the latter part of 1910, under which you purchased from 1,500 to 2,000 tons of plates, you cannot give the price, nor can you give the bids that were made on that contract?

A. No, sir.

Q. Now, take the year 1911, how much plate did you buy?

A. Somewhere between 4,000 and 6,000 tons.

Q. Well, were there any written contracts for that?

A. There would be contracts with Worth Brothers.

Q. When was the first one made?

A. Along at the beginning of the year.

Q. How much did it cover?

A. Practically the same amount as the contract in July.

Q. That is, from 1,500 to 2,000 tons?

A. Yes, sir.

Q. What was the price?

A. That I do not recall.

Q. Who else bid on that contract?

A. The representative of the Carnegie Steel Company.

Q. Anybody else?

A. Not at that time. The representative of the Lukens people was along and asked to submit prices.

Q. But he did not submit any?

A. I do not recall his having submitted any.

Q. The only one you recall was the Carnegie?

A. Yes, sir.

Q. Do you know what price they submitted?

A. No, I do not recall.

Q. Have you any recollection about it?

A. No, sir.

Q. Take 1912: How much did you buy?

A. Between 4,000 and 6,000 tons.

Q. Whom did you buy that of?

A. Part from the Carnegie and part from Worth Brothers.

Q. How much from Carnegie?

A. In 1912 we probably purchased from Carnegie something over 1,000 tons.

Q. The balance from Worth?

A. Yes, sir.

Q. How many contracts did you have with Carnegie; one or more?

A. I do not recall whether we had a contract or I just placed an order for the amount.

Q. You do not even recollect that?

A. No, sir.

Q. Do you know the price?

A. The price varied. I remember it got very low during 1912; I think as low as $1.10 Pittsburgh.

Q. I am not asking you any general prices, but I am asking you the price you paid Carnegie for that 1,000 tons or more.

A. Well, it varied.

Q. How many different purchases were there in that 1,000 tons?

A. I think two or three.

Q. When was the first one made, and how much tonnage did it cover?

A. I think the first one was made before the middle of the year.

Q. The first one before the middle of the year? Well, how much tonnage did it cover?

A. That I could not recall.

Q. Do know the price?

A. I cannot recall just what it was.

Q. Well, the second one covered how much—when was the second one made?

A. Along during midsummer, I believe.

Q. How much tonnage did that cover?

A. That I do not recall.

Q. Do you know the price?

A. I think that was along about, if my memory serves me right, $1.18 or $1.20 Pittsburgh.

Q. You do not remember the price, do you?

A. No; that is as near as I can remember it.

Q. Then you do not undertake to state what the price was, do you?

A. Not beyond that.

Q. You say "either or"; can you say which it was?

A. No, I cannot.

Q. If you made a third contract with Carnegie—you stated two or three; did you make two or three that year?

A. I think we bought more from Carnegie.

Q. When did you make the next contract with them?

A. There was no contract.

Q. Well, a purchase?

A. A purchase.

Q. When?

A. In the fall.

Q. How much did that cover?

A. That must have covered four or five hundred tons.

Q. What price did you pay for that?

A. $1.10 Pittsburgh.

Q. What was the date of that contract?

A. No contract.

Q. Well, the purchase; what was the date of it?

A. I do not recall the date of it.

Q. But you do recall that it was four or five hundred tons?

A. Yes, sir.

Q. And that it was $1.10 Pittsburgh?

A. Yes, sir.

Q. You said you got from four to six thousand tons that

year, something over a thousand of which was from Carnegie, and the balance was from Worth; is that correct?

A. Yes, sir.

Q. Did you have written contracts with Worth?

A. Yes, sir.

Q. When was your first contract that year with Worth, and how much was it for, and what was the price?

A. The price I cannot give you.

Q. What was the tonnage?

A. The tonnage ran along about the same as what I gave you on the other contracts with Worth Brothers.

Q. Fifteen hundred to two thousand tons?

A. Yes, sir. There would be two of those contracts during the year.

Q. You cannot give the price of either?

A. No, I cannot recall the price.

Q. Nor the exact tonnage of each contract?

A. About what I stated them to be.

Q. That is somewhere from fifteen hundred to two thousand?

A. Yes, sir.

Q. That is as near as you can come to it, is it?

A. Yes, sir.

Q. Take these first purchases from the Carnegie, where you said you could not give the amount and could not give the price, and it was some time before the middle of the year; is that as near as you can come to the date, that it was some time before the middle of the year?

A. Yes, sir.

Q. You cannot even give the month?

A. No, sir.

Q. Do you know what other prices were bid on those purchases, if any?

A. Only in a general way.

Q. I mean, do you recollect and can you state what they were?

A. No, sir.

Q. Well, now, can you state the prices that were bid on any of these other contracts or purchases that were made for

the year 1912? If so, just state which ones and when they were made.

A. On Worth Brothers' last contract they got as low in their price in supplying that plate upon that contract as $1.25.

Q. That was the last contract?

A. Yes.

Q. I did not ask you what were the prices at which you made those purchases. I asked you what the bids were from bidders other than those with whom you contracted or from whom you purchased.

A. The bids from Lukens would be practically the same as those from Worth Brothers. I do not recollect what they were, but——

Q. Well, tell me——

MR. REED: Wait a moment, Judge. The witness had not finished.

MR. DICKINSON: I do not mean to interrupt the witness. I thought he had finished. I want to give him every opportunity to complete his answers.

THE WITNESS: As a rule they run the same.

By MR. DICKINSON:

Q. The prices?

A. Yes; from Lukens and Worth Brothers.

Q. And those are the only ones you can give any statement about, as to the prices that were bid for that year?

A. Exact figures, yes.

Q. Those are the only ones you recall?

A. Yes; they were probably the same.

Q. Take the year 1913. How much plate have you bought?

A. We have purchased, I think, 4,000 tons.

Q. Up to what time?

A. Under contracts up to the present time.

Q. With whom were those contracts made?

A. Worth Brothers.

Q. For the entire amount?

A. Yes, sir.

Q. You purchased from no one but Worth Brothers?

A. This year.

Q. Take welded tubes: What amount did you purchase from July, 1910, to the end of that year?

A. Probably 300,000 or 400,000 feet.

Q. What would that represent in money?

A. That I cannot give you offhand, sir.

Q. Can you approximate it?

A. No.

Q. You have no idea of it?

A. No; because the price varies in tubes and the size of tubes and the amount, and——

Q. Don't you know how much you——

MR. REED: The witness has not finished, Judge.

MR. DICKINSON: If you will keep your voice up, Mr. McKinney, I will not make the mistake of thinking you have finished your answer when you have not.

THE WITNESS: The number of feet and size varies, and the price on the size varies. We may use more one size one year than we do of another size.

By MR. DICKINSON:

Q. Can you approximate, in money value, what your purchases the latter half of the year 1910 in welded tubes amounted to?

A. It ought to be $30,000 anyway, $30,000 or $40,000.

Q. That is as near as you can come to it?

A. Yes.

Q. Take the year 1911.

A. Probably it would be again as much as that.

MR. REED: You mean twice as much?

THE WITNESS: Yes.

By MR. DICKINSON:

Q. That is to say, from $60,000 to $80,000?

A. $60,000 to $80,000; yes, sir.

Q. Well, 1912?

A. Practically the same.

Q. From $60,000 to $80,000?

A. Yes.

Q. The last half of the year 1910, from whom did you purchase your welded tubes?

A. The National Tube Company.

Q. All of them?

A. Except some which we received from the Allegheny Steel Company.

Q. Was that a large amount?

A. No; no great amount.

Q. What percentage, then, did you get from the National Tube?

A. Practically all.

Q. In 1911 from whom did you purchase?

A. Practically all from the National Tube Company.

Q. For 1912?

A. Practically all from the National Tube Company.

Q. For the year 1913?

A. Practically all from the National Tube Company.

Q. Take the last half of 1910? You say you made practically all your purchases from the National Tube Company. Can you give the times at which you made those purchases, if there were more than one, for that period?

A. There was only one.

Q. There was only one purchase?

A. Yes.

Q. Was it in a written contract?

A. Yes.

Q. Was it a written contract for the other years?

A. Yes, sir.

Q. Take the contract that you operated under in 1910: When was that contract made?

A. Just after I came to Titusville.

Q. That is to say shortly after July?

A. Yes, sir.

Q. How long a period did that run?

A. Six months.

Q. When did you make the next contract?

A. About the first of the year.

Q. Was that for the whole year?

A. No.

Q. How long?

A. Six months.

Q. Did you make another written contract that year?

A. Yes, sir.

Q. How long?

A. Six months.

Q. Did that occur for the subsequent years in the same way?

A. Yes.

Q. Where are those contracts?

A. I don't know where they are.

Q. Don't you keep your contracts?

A. I don't think we do, the old ones, the ones that expire.

Q. You do not keep the papers of your company for three years back?

A. Not those.

Q. Have you your contract for 1913?

A. Not with me.

Q. But you have it?

A. Yes, sir.

Q. I will ask you to produce it.

Mr. Reed: In what way do you want Mr. McKinney to produce it, Judge?

Mr. Dickinson: If he will send it to you it will be satisfactory.

By Mr. Dickinson:

Q. Have you your contracts for 1912?

A. I do not think we have.

Q. Now, Mr. McKinney, take the contract for 1910; that was for a variety of tubes, was it?

A. Different sizes.

Q. How many different sizes do you use then?

A. We use from inch and a half to four inches in diameter.

Q. How many different sizes?

A. Well, it would be inch and a half, two inches, two and a half, three, three and a half, and four.

Q. You do not know how many contracts you have, except for 1913?

A. I do not think we would have any.

Q. Were the others substantially like the one for 1913?

A. Yes.

Q. The terms and provisions substantially the same?

A. Yes.

Q. Did it cover a particular tonnage, each contract?

A. Only in feet.

Q. Then it covered a certain number of feet?

A. Yes.

Q. That you agreed to purchase?

A. Yes.

Q. Take the contract for 1910: Did you make that contract yourself?

A. Yes.

Q. What other concerns except the National Tube did you get bids on for that contract?

A. I had the purchasing agent call up the Monongahela and get quotations on the telephone, to check the National Tube.

Q. So that you did that for the purpose of checking the National Tube?

A. Yes.

Q. And you had your purchasing agent call up one manufacturer?

A. Yes.

Q. Take the year——

A. (Interposing) The same applies for all.

Q. For all the subsequent years?

A. Yes.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Does your refusal to talk to counsel for the Government and your sympathy for the defense spring from the fact that you own stock or bonds in the Steel Corporation, or is it a fact that you own stock or bonds in the Steel Corporation?

A. I do not.

Q. That is not the source of your sympathy?

A. No, sir.

JOHN L. HAINES

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh, Pennsylvania.

Q. What is your occupation at the present time?

A. I am connected with Jones & Laughlin Steel Company.

Q. In what capacity?

A. My title is Assistant to the Vice-President.

Q. Such a title might cover almost any kind of duties. Won't you tell us more specifically what your duties are?

A. I am assistant to Mr. Willis L. King, who might be termed Commercial Manager, but we have no such title. He is vice-president, and I am his assistant, coming in contact with the commercial end of the business of the Jones & Laughlin Steel Company.

Q. In your position have you direction over and acquaintance with sales made by your company, under the general authority of Mr. King, of course?

A. I have, with that understanding, that I am assistant to the vice-president, and of course subject to his co-operative advice.

Q. How long have you had that position, Mr. Haines?

A. Since January 1, 1910.

Q. Prior to January 1, 1910, what was your position with Jones & Laughlin Steel Company?

A. I was manager of orders.

Q. For how long?

A. From December 1, 1899, until December 31, 1909.

Q. And as manager of orders what were your duties?

A. After a sale was made, the orders were passed to the order department, of which I had charge, and it was my duty to see that they were properly filled and shipped.

Q. There were times when that was not altogether easy?

A. There were times when it was very hard.

Q. Prior to December 1, 1899, what were your duties?

A. I entered the employ of the Jones & Laughlin Steel Company December 1, 1897, in the office and connected with the sale of the frabricated material of that company, and stayed in that position until I took charge of the orders. If you will allow me, of course at that time the firm was Jones & Laughlin, Limited, which is the same thing.

Q. The present corporation of Jones & Laughlin Steel Company is the successor of the partnership association which was known as Jones & Laughlin, Limited?

A. Correct.

Q. What products does Jones & Laughlin make and sell now?

A. At the present time?

Q. Yes.

A. Jones & Laughlin make steel billets, slabs and blooms, and convert those into finished products, principally structural material, plates, bars, shafting, chains, spikes, wire, wire nails, tin plate and black sheets in tin mill sizes.

Q. We are not to understand that all the billets you make are converted into those?

A. We sell a very small amount of billets.

Q. You do sell some, though?

A. Some at times.

Q. And sometimes you sell slabs as well?

A. We do.

Q. And blooms?

A. We do.

Q. Mr. Haines, are these different products that you have mentioned sold in competition with other makers of similar products?

A. They are.

Q. Is that competition unlimited? I mean, unlimited by agreements as to prices?

A. It is.

Q. Is that true of each of the products that you have named?

A. Everything that I have mentioned.

Q. How long has that been so to your own knowledge?

A. I should say about nine years.

Q. Mr. Haines, what is the nature of that competition which you have with these different products?

A. Keen.

Q. Does it extend to competition in matters of price?

A. It does.

Q. How long has that been so?

A. I can testify since my direct connection with selling.

Q. There has always been competition in price since 1897?

A. Yes, sir.

Q. Is that true of every part of that time?

A. I did not catch that last. You said since '97?

Q. 1897, yes.

A. Of course there has always been competition, but my particular knowledge of the competition has been since 1899. I was only in a limited part prior to that.

Q. It is true of the period since 1899 that there has been competition in matters of price?

A. To some extent.

Q. Will you tell us to what extent it is not true?

A. I would say that for a period prior to 1904 there was less competition from my observation for a brief time.

Q. That was in the days of the pools that have been testified to?

A. That is a matter of quite common knowledge.

Q. It was quite common knowledge then, wasn't it?

A. I think so.

Q. Is there any noticeable difference between the character of the competition that you find to-day in the steel business and the competition that existed in 1899; if so, what is the difference?

A. I would say that there were more sales people in the field and a larger number of concerns represented; some concerns have come into being since that time and are now stiff competitors on some lines.

Q. That is, there is a larger number of competitors to-day than there was then?

A. There are more men after the same order.

Q. What difference in the character of the competition is there besides that?

A. In my opinion there is a more thorough knowledge by the salesman of his costs, or of his company's costs, and that has its effect on competition. If it is a fair statement, perhaps an effort is made to make the competition more sensible and not wild.

Q. You think it was wild at times around 1899?

A. From my viewpoint in the structural selling of 1897 and 1898 there were some wild prices made.

Q. Do you mean to say that in 1897 and 1898 prices were made below cost by any manufacturers of structural material?

A. I think in 1897 that was true.

Q. Do you read the Iron Age?

A. I do.

Q. Do you read the prices which it quotes from week to week on steel products that you have named?

A. I do.

Q. Do those prices accurately represent the prices that are going in the steel market?

A. I think they do, so far as it is possible for any body of men to collate the common data, common knowledge.

Q. But do you think that it is possible for strictly accurate information to be collected in that way, and if not, why not?

A. I think that the quotations recorded would represent fairly the market, but I believe at all times it is possible that certain transactions may have occurred that could not be known to the parties putting the information before the public.

Q. Take large contracts, contracts for very large tonnages: Are they generally made at the price quoted in the Iron Age?

A. Probably there are exceptions.

Q. What is your own experience, Mr. Haines?

A. That there are exceptions.

Q. Those exceptions are pretty frequent sometimes, aren't they?

MR. DICKINSON: I object to that as leading.

THE WITNESS: At some times.

By Mr. Reed:

Q. Where specially low prices are made to get business, is it general for the buyer or the seller to publish those prices?

Mr. Dickinson: I object to the witness stating anything except about his own business or what he knows of his own knowledge. He cannot answer this unless he knows what other people do.

By Mr. Reed:

Q. I am only asking Mr. Haines what he knows of his own knowledge.

A. From my observation there are negotiations that result in sales the substance of which is not made public.

CROSS EXAMINATION

By Mr. Colton:

Q. Who were your principal competitors before the formation of the United States Steel Corporation in structural steel?

A. Our principal competitors were the Carnegie Steel Company, Pittsburgh; the Illinois Steel Company; the Cambria Steel Company; the Roberts concern, known as the Pencoyd Works; and, I think, the Passaic was a competitor.

Q. The Passaic was a small competitor?

A. A small competitor. Those other four were the largest.

Q. Would you name your principal competitors in steel bars before the formation of the United States Steel Corporation?

A. The Carnegie Steel Company, the Illinois Steel Company, the Cambria; and there were undoubtedly numerous other smaller concerns. These, perhaps, were the principal ones.

Q. Were those companies competitors of yours in interstate commerce? By "interstate commerce" I mean in more than one State?

A. They were.

Q. Do you know enough about the size of the Carnegie Company in structural steel to know whether the Carnegie Company and the Illinois Company at that time, and the A. &

P. Roberts Company, taken together, had a larger output of structural steel than all the other companies in the United States in structural steel, just before the formation of the United States Steel Corporation?

A. From my information I should say yes.

Q. In plates who were your principal competitors before the formation of the United States Steel Corporation?

MR. LINDABURY: Have we not all that in the record already, Mr. Colton—this that you are asking? Perhaps not, but I thought we had.

By MR. COLTON:

Q. Could you name them, Mr. Haines?

A. I could name the principal ones that confronted us: The Carnegie Steel Company; the Illinois Steel Company; the Lukens and Worth plants at Coatesville; and, in our Pittsburgh district particularly, the Carbon Steel Company; and plates were made in what was known as the Shoenberger plant, the Shoenberger——

Q. That was acquired by the American Steel & Wire?

A. It is now a part of the American Steel & Wire, that property.

Q. Did I interrupt you there?

A. I was just repeating the word "Shoenberger," in connection with the Shoenberger Works.

Q. And they were competitors of yours in interstate commerce?

A. They were, although the smaller the company the less competition. The local concerns, the Carbon particularly, did not reach as far as some others in all States; but it was interstate competition.

Q. Do you know enough about the manufacture and output of plates at that time to know whether the Carnegie, the Illinois and the American Steel & Wire Company combined had a larger output in plates than all the rest of the companies in the United States put together?

A. I should say yes.

Q. What was the character of the competition in bars the latter part of 1900, if you recall?

A. The latter part of 1900?

Q. Yes; before the formation of the United States Steel Corporation. I mean as to the keenness of the competition, in 1900.

A. There was keen competition.

Q. How was it in plates?

A. There was keen competition.

Q. And in structural material?

A. There was keen competition.

Q. The keen competition in plates and structural material continued up to the time of the forming of the structural and plate pools?

A. I think there was some competition at all times, but there was a period of great good business when competition was less evident, except regarding deliveries.

Q. As regards price, then, there was very much less competition during the existence of the pools?

A. I should say yes; but I do not know as I could ascribe it wholly to pools, because there was a great demand for material.

Q. During the period from the formation of the United States Steel Corporation up to and through 1908 were not the prices quoted by the larger structural manufacturers fairly uniform?

A. I think so; fairly uniform.

Q. As to plates, how would you answer that question?

A. Fairly uniform.

Q. As to bars?

A. The same; fairly uniform.

Q. During the latter part of 1907 and 1908 there were a number of committees which we describe as the Gary committees; did you know of the existence of those committees?

A. I understood there were such committees.

Q. You did not attend any of the meetings?

A. At that time, no, sir.

Q. During the year 1908, in plates and structural, were the prices fairly well maintained by the larger manufacturers of those materials?

A. I think so.

Q. In 1909 there was a sharp break in the price of structural and plates, was there not?

A. During the first half of 1909 there was a sharp break in price.

Q. Was there a sharp break in the price of bars?

A. There was.

Q. Had the price of steel bars during 1908 been fairly uniform among the larger manufacturers?

A. It had.

Q. You did not, yourself, come into personal contact with any one of those different committees that met during that period, did you?

A. I did not.

Q. What transpired at those meetings would be wholly hear ay on your part, of course?

A. It would.

Q. In 1911 there was a rather sharp break in prices in bars, was there not?

A. There was.

Q. And in plates?

A. There was.

Q. And in structural material?

A. There was.

Q. Before this break in prices, and during the year 1910, did you attend any committee meetings?

A. I would call them meetings of consultation. I attended such.

Q. What different companies were represented at these meetings of consultation?

A. Many of the larger steel manufacturers.

Q. Would you name the principal ones in structural material?

A. The Carnegie Steel Company, the Cambria Steel Company, the Pennsylvania Steel Company, the Inland Steel Company. There were others——

Q. Would you give the representatives of each?

MR. REED: Let him go on and give the whole list first.

MR. COLTON: All right. If you have any others in mind, just state them.

THE WITNESS: There were others, smaller, perhaps, for instance, the Phoenix. Those were the principal ones.

Q. Now, can you give the representatives of each of those companies that attended from time to time, as far as you recall them?

A. As my recollection serves I remember the presence of Mr. Dinkey, of the Carnegie Steel Company.

Q. Do you remember his first name?

A. A. C. And Mr. Price of the Cambria and Mr. Krebs of the Cambria; Mr. Reynders of the Pennsylvania Steel Company. Possibly I omitted the Pennsylvania in my first naming of the companies, but I remember his presence. And Mr. L. E. Block of the Inland.

Q. Did Mr. Bope for the Carnegie attend at times?

A. I never attended a structural meeting where I was present that Mr. Bope was present.

Q. Before the end of those structural meetings that occurred in 1910 did the majority of the manufacturers there present usually announce that they expected to follow a price, the price named by each of the majority, being the same price?

A. I have heard individual representatives of companies say that they did not expect to go below a certain price that they might name, or that they had named.

Q. And frequently a majority of the representatives of the companies would name such a price, the same price that they did not expect to go below?

A. I think so; I do not remember.

Q. You personally, when you made such an announcement as that, intended to follow that particular price unless you learned of that price being cut, did you not?

A. That was in substance my thought.

Q. As a rule, then, the prices were fairly well maintained by the manufacturers that made such announcements?

A. There were exceptions, but I think the word "fairly" covers it.

Q. And in case there was a variation from the price named, from the common price, by one of the manufacturers, was that a matter that you had up for discussion at a number of those meetings?

A. I have heard criticisms of what were termed foolish prices.

Q. And you have heard that at perhaps most of these meetings?

A. I attended but a few, but I will say that I heard them at several of the few.

Q. Can you recall that there was any meeting at which you did not hear any complaint or criticism as to charging a foolish price, different from the common price?

MR. LINDABURY: He has not said there was a common price.

MR. COLTON: Different from a common price.

MR. LINDABURY: But you are putting words into his mouth. He did not say there was a common price.

THE WITNESS: I have heard complaints of what I just called foolish prices. They were heard at most of the meetings, but there may have been one or two at which that point did not come up.

By MR. COLTON:

Q. The particular individual who had made this foolish price, his attention was called to it?

A. He was oftentimes asked if it was so; it was mostly rumor.

Q. Did he get up and explain?

A. Sometimes.

Q. What sort of explanation was made by him?

A. Sometimes he would say that he did. Sometimes he would say that the rumor was false.

Q. Now, were those prices that you call foolish prices always less than the general price which was common to a large number of the manufacturers that you have named, as stated in your previous testimony?

A. I meant by foolish prices, prices that would be away below any so-called market price that might be quoted in the papers, as an evidence of the market price.

Q. You are contrasting that, then, with the prices quoted in the papers?

A. The prices were virtually what we might call a common

market, and checked very close with the prices that were mentioned in the meetings.

Q. With the common price?

That is, common to certain members of the meeting; is that what you mean, the one that was mentioned in the meeting?

A. If various companies were quoting certain prices those prices would of course come to the knowledge of the trade papers, and therefore I call such a price the common market price.

Q. What was the capital stock of your company on October 26, 1911, if you know as of that date?

A. $30,000,000.

Q. What was the capital stock of your company in 1901?

A. The company was organized in 1901 with the same capital stock.

Q. Are you familiar with the output of your company so that you could give it fairly accurate for the different years, for ingot production?

A. I could give a comparison; I could not recall the figures exactly.

Q. What do you mean by comparison?

A. That is, I might say the product of to-day, and then by the proportion, by the increase of certain years.

RE-DIRECT EXAMINATION

By Mr. Reed:

Q. I will ask you to give that.

Mr. Colton: I think Mr. King covered that, so far as ingot production was concerned. I have a distinct recollection that he gave about 1,500,000 tons for his ingot production, and so on down. That is the reason I stopped there, and I called attention to it. I have no objection to it.

Mr. Reed: I will ask Mr. Haines the same question.

By Mr. Reed:

Q. What information have you concerning the growth of the company?

A. My idea of our present ingot capacity is about 1,800,000 tons annually; that is approximate.

Q. What was it in 1901?

A. In 1901 it was considerably less than half of that.

Q. Do you know what your actual production in 1913 in finished rolled products was?

A. In 1913? I cannot foretell the future.

Q. In 1912?

A. As I recall the figures the finished product was about 1,500,000 net tons. Other figures have been gross tons.

Q. Do you remember approximately the production of finished rolled products in 1901?

A. I could only give it relatively—between one-third and one-half of those figures.

Q. The American Iron and Steel Association's figures seem to show that your production for 1901 was 185,753 tons finished rolled products; is that approximately correct?

A. That checks fairly close. I said from one-third to one-half; I have already stated that our last year's production was about a million and a half, so about one-third—those figures are fairly correct.

Q. You testified in answer to Mr. Colton's question that throughout the period of your acquaintance with the steel market there has been a fair uniformity in quotations, did you not?

A. I think I did, sir.

Q. Are the different steel makers at the present time fairly well acquainted with what one another is charging?

A. Yes.

Q. In your opinion has that any tendency toward bringing about fair uniformity of the sort that you speak of?

A. I should say yes.

Q. I will ask you about these meetings that you attended, you say, in about 1910: At those meetings did you or any one else, so far as you know, leave with the obligation to maintain a specific price on any product?

A. No one did.

Q. Were you free to do as you pleased in regard to your own prices?

A. We were.

Q. Did you do as you pleased?

A. We did.

MR. REED: That is all.

RE-CROSS EXAMINATION

By MR. COLTON:

Q. You do not intend to modify what you stated as to your intention in respect to price, given on your cross examination, do you, Mr. Haines?

A. How is that?

Q. You do not intend by your answer to modify your testimony in regard to just what you did intend to do in respect to your price that you announced, do you?

A. I tried to make it clear that it was our effort to do as we said—if a statement was made by one individual, putting it to myself, for instance, if I said we did not expect to go below a certain price I did not feel bound that we shouldn't if necessity arose.

Q. You intended, however, not to go below that price except for the reason stated before?

A. We did.

Q. And you intended other people there to so understand you, did you not?

A. Yes, sir.

Q. Now, I neglected to ask you whether you fabricate any bridge steel, and if so, to what extent?

A. We have a fabricating, or, as we call it, a structural department, which does some fabrication, but does not attempt railway bridge work.

Q. And in highway work you only do a little punching and one thing and another of that kind?

A. Of course highway bridge work is sometimes very simple, and we might do some of that.

Q. But in general, you are not in the bridge business, as distinguished from the structural business?

A. We are not fabricators of big bridges.

Q. But you do fabricate for buildings?

A. We fabricate for buildings and common structural work.

MR. COLTON: That is all.

MR. REED: That is all, Mr. Haines. Thank you.

ROBERT GARLAND

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Mr. Garland, where do you live?

A. Pittsburgh, Pa.

Q. How long have you lived there?

A. Lived there for thirty-six years.

Q. You are president, I believe, of the Garland Nut & Rivet Company, are you not?

A. Yes, sir.

Q. What does that company make?

A. We make small rivets, tinners' rivets, coopers' rivets, wagoners' rivets, made cold. We do not make hot rivets, and we also make cold punched nuts.

Q. In order to make those products, what supplies of steel materials do you buy?

A. We purchase wire rods; we draw those rods into our own wire, and we purchase steel for making nuts. Formerly we purchased iron; now we use steel.

Q. In what form do you buy steel for making nuts?

A. In the form of bars.

Q. About what tonnage annually of rods and bars do you buy?

A. Approximately 5,000 tons.

Q. Of the two together?

A. Of the two together.

Q. From which companies do you buy your rods?

A. We buy from the American Steel & Wire, Jones &

Laughlin, mainly. We have bought from other companies, possibly three other companies, but not to a large extent.

Q. What are the three other companies, Mr. Garland?

A. We have bought from the Cambria, and we have bought from Page.

Q. The Page Woven Wire Fence Company?

A. Page Woven Wire Fence Company, and some from the Shenango people; only one year, however.

Q. What is the name of the Shenango Company?

A. I think it is Iron & Steel Company; I am not exactly sure. I only bought of them once; it is the Shenango Iron & Steel Company.

Q. From what companies have you been buying your bars, Mr. Garland?

A. We have been buying from the Carnegie Steel Company, Jones & Laughlin, and Republic Iron & Steel Company.

Q. Before buying rods and bars is it your custom to ask quotations from different makers?

A. Yes, sir.

Q. Do you ordinarily buy on annual contracts, or do you buy according to your needs from time to time?

A. No, we buy about two or three times in a year.

Q. How do the quotations that you receive on rods range; do they vary in price?

A. They vary somewhat.

Q. About how much per ton?

A. Well, on the average, about fifty cents a ton.

Q. How long have they been varying in that way?

A. They have been varying in that way, to my knowledge, since 1904.

Q. How about bars?

A. On bars—we have not purchased steel bars except during the last three years. We had formerly bought iron bars, and they were not bought from the Corporation.

Q. Limiting your statement only to the steel bars that you bought in the last three years; that is, since 1910, is it?

A. Yes; 1910, 1911, 1912 and 1913.

Q. How have the prices varied?

A. They have varied about the same; hardly as much. In

some cases twenty cents, in some cases fifty cents a ton; well, some cases a dollar a ton.

Q. The prices are closer?

A. From twenty cents to a dollar a ton.

Q. In either of these products, Mr. Garland, has there been since 1904 any evidence of a combination to fix prices on your purchases?

A. I never saw it on those products in any way.

Q. Do you think you have got the benefit of competition on both of them?

A. We always have.

Q. Do you read the Iron Age prices?

A. I glance at them now and then. I do not read them seriously. I read the opinions and comments in the Iron Age always, every week, but I would not say that I look at the prices as anything significant; in fact, I do not pay any serious attention to them.

Q. Why don't you give serious attention to Iron Age prices? What is your reason for that?

A. I have always looked at the Iron Age prices as being a guide, possibly, for the trade in general.

I have found in selling our goods throughout the country that the hardware merchant will consult the Iron Age figures, but my experience has been that the figures do not always tell the truth; the prices are sometimes shaded.

Q. Are you often able to get them shaded on your purchases?

A. We generally try to beat the price if we can. We try to get the best price we can always.

Q. What is your experience?

A. My experience is that we generally get a little lower than the Iron Age prices. I think the Iron Age price is meant largely for the trade in general, even to the retail hardware man.

CROSS EXAMINATION.

By Mr. Colton:

Q. Before the formation of the American Steel & Wire

Company from what companies did you purchase your wire rods?

A. We purchased from the Pittsburgh Wire Company and the Consolidated Steel & Wire Company.

Q. Those companies were both taken over by the American Steel & Wire Company?

A. Yes.

Q. Prior to the organization of the American Steel & Wire Company those companies had competed with one another for your business?

A. Oh, yes.

Q. And were competitors of one another?

A. Yes.

Q. From the formation of the American Steel & Wire Company up to the close of the year 1904 you bought your rods exclusively from the American Steel & Wire Company?

A. We bought exclusively for those years from them because our factory was located midway between those two plants that I mentioned, in the same district, in the Braddock-Rankin district. Our factory was located in Rankin, less than a mile from the Consolidated, and about two miles from the Pittsburgh Wire Company's plant. It was simply a matter of switching and rolling, and everything of that kind; and we bought from those people.

Q. From 1905 on up to the present time, what proportion have you bought of your rods from the American Steel & Wire Company?

A. I have that here (producing memorandum). From 1904—do you want it by years, or just roughly?

Q. If you have it in mind as to whether it is over half or less than half, that would be sufficient.

A. We have bought about 60 per cent. from the American Steel & Wire Company from 1904 up to date.

Q. That is close enough. What per cent. have you bought from the next largest company from which you purchased?

A. Jones & Laughlin, I should say practically all. Occasionally we went outside, but not to a great extent.

Q. You have practically confined your purchases, then, for

the entire period, either to the American Steel & Wire Company for the first part of the period, or to Jones & Laughlin and the American Steel & Wire Company for the second?

A. Since 1904, excepting in one year, when we bought a large quantity from the Cambria, made a contract with the Cambria. At that time we bought from three companies.

Q. In what year was that?

A. In 1905 we bought from the Cambria largely. We bought from three companies that year—no; not from the Cambria; it was from the Page Woven Wire Fence Company.

Q. In what year?

A. 1905, we bought from the Page Woven Wire Fence Company.

Q. In what year did you buy from the Cambria Company?

A. We bought from the Cambria Company in 1911 and 1912, but not to a large extent.

Q. But you had in mind the Page Woven Wire Fence Company when you said that in one year you bought a large quantity from someone else?

A. Yes. I had to correct that. I meant the Page Woven Wire Fence Company instead of the Cambria Company.

Q. The rods of the Page Woven Wire Fence Company differed somewhat in quality from the other rods you had been getting, did they not?

A. We had not bought from them previously. Yes, they differed somewhat in quality. We want a certain quality of rods.

Q. Is that true also of the Cambria rods, that they differed some in quality?

A. They seemed to be pretty nearly right, but not just as suitable as those of the Jones & Laughlin and the American Steel & Wire Companies.

Q. The contracts that you made with the American Steel & Wire Company and the Jones & Laughlin Company have not always been made at the same time, have they?

A. Well, sometimes within a week or so of each other. In other words, if we could not contract for all we wanted, if we were held down in our contracts, and we thought the market was going up, and wanted to place an order for a large quan-

tity, and could not get all the quantity placed, then we would go to the other mill and even up, or average up.

Q. On the whole, Jones & Laughlin's prices have averaged just a trifle higher than those of the American Steel & Wire Company?

A. Just a trifle higher; although at times we are buying from both at the same price. Taking the average, however, they are a little higher.

Q. To some extent this slight difference in average price might be accounted for by the fact that you made the contracts at different times between the two different companies?

A. It might be, but generally we made our contracts about the same time; practically the same time, within a couple of weeks of each other, anyhow. We generally contracted if we thought the market was changing, or if, judging from the market conditions, we looked for a stiff market.

Q. And your inquiries were primarily confined to those two companies that were particularly suitable to the carrying on of your business?

A. Generally so, because we knew the general market conditions, and we preferred to buy in our own district, rather than to go outside.

Q. You got the general market conditions from what sources?

A. From general information, men we meet every day, men we talk to, the state of the order books, and the way in which the mills will ship. We know when they are full and we know when orders are scarce. We know those market conditions. We are right on the ground.

Q. Yes; I understand.

The only other product that you bought that is manufactured by the Steel Corporation is steel bars, is it not?

A. Steel bars for making nuts.

Q. You began the purchase of steel bars in 1911?

A. We purchased some steel bars in 1910. We bought some from the Republic in 1910. We had been purchasing iron bars formerly. The Corporation did not come into that.

Q. The Steel Corporation did not come into that, I understand.

A. Then in 1911 we confined our purchases of steel bars to three companies. Commencing in 1911 we bought from the Carnegie, the Republic and Jones & Laughlin.

Q. You bought about half from the Carnegie Company in bars; about half of your purchases since you began to buy bars?

A. I can tell you that. I have it here. We bought nut steel, in 1911, 800 tons from Carnegie, against 300 tons outside.

In 1912 we bought 1,200 tons from them and 1,000 tons outside.

In 1913, up to November 1, we bought 1,000 tons from Carnegie and 450 tons outside.

Q. In 1912 were your orders placed as between the companies there on an average at the same price?

A. The prices vary some.

Q. I mean the general average would be the same?

A. In 1912 prices were the same. Our average price throughout that year was $1.25.

Q. That is, $1.25 base price. f. o. b. Pittsburgh?

A. Base price at our mill. Our mill is right in the district.

Q. Very near by, then, and it would be pretty close to the f. o. b. price Pittsburgh?

A. Practically—with the exception of switching charge. In 1911 there was a difference of 60 cents a ton.

Q. What were the differences in the size of orders in 1911?

A. In 1911 we purchased 1,100 tons. That is, of steel. We have bought iron, you understand——

Q. I understand.

A. This is of steel only.

Q. From what companies did you purchase that 1,100 tons?

A. From the Carnegie Steel Company 800 tons, and from outside mills 300 tons.

Q. Do you know as to the time that you made those smaller purchases that you made from the outside mills in

1911 as to whether they were made at the same time as you made the contracts for that larger tonnage from the Carnegie Company?

A. I don't know just as to the time. I just have the average here. I think, however, as a general thing, they were made at the same time. We generally book our contracts about the same time.

Q. How many different companies did you deal with in bars in 1912?

A. In 1912, the Carnegie Steel Company and the Republic, principally; some from Jones & Laughlin.

Q. Did you confine your purchases primarily to those three companies you have named?

A. For steel, yes; wrought iron outside.

Q. And your inquiries were primarily to those companies?

A. As a general thing, yes; but, then, we knew the market conditions, you understand.

FREDERICK N. BEEGLE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Beaver Falls, Pennsylvania.

Q. How long have you lived there?

A. About thirty-three years.

Q. What is your occupation?

A. I am president of the Union Drawn Steel Company.

Q. Beaver Falls is a suburb of Pittsburgh, is it not?

A. Well, yes.

Q. It is not very far from there?

A. About thirty miles from Pittsburgh.

Q. How long have you been president of the Union Drawn Steel Company?

A. I could not tell you exactly, but I should say twelve or fifteen years. Prior to that for a number of years I was secretary and treasurer.

Q. What products does your company make?

A. We are finishers of bright finished steel, shafting, shapes, and so forth.

Q. In what form are your supplies of steel principally bought?

A. Bars and rods.

Q. When you speak of rods, you mean wire rods or rods made in a rolling mill?

A. Well, we buy a few wire rods also.

Q. Principally bar mill products?

A. Yes.

Q. How many tons of bar mill products do you buy in a year?

A. Well, that varies, but it has been growing each year. I think the past year we purchased something in the neighborhood of 100,000 tons.

Q. Is there any other single customer for bar mill products in the United States that you know of that buys as much as 100,000 tons?

A. Not that I know of.

Q. What tonnage were you using annually twelve or thirteen years ago, say in 1901?

A. Well, that would be a matter of guess on my part in a way, but I should say about 25,000 to 30,000 tons a year.

Q. I simply wanted to get some idea of the growth of the company. Has it grown steadily, or in leaps and bounds?

A. It has had rather a steady growth. Of course we have had our ups and downs in those bad years like 1911 and 1907, but it has been a natural growth outside of the panicky conditions from time to time, such as we are having now.

Q. Has that growth come about through additions to your plant or through purchases of other concerns?

A. Entirely through our own plant.

Q. It has been a growth of the plant with which you started?

A. Yes.

Q. From what companies do you ordinarily buy your bar mill products?

A. We buy from the Carnegie Steel, the Cambria Steel, the Republic Iron & Steel, the Crucible Steel Company of America, and in minor lots from Lockhart.

Q. The Lockhart Steel Company?

A. Yes.

Q. Any from Youngstown?

A. The Youngstown Sheet & Tube.

Q. How do you keep in touch with the market? How do you get your quotations?

A. Well, sometimes we write for quotations, but naturally keep in touch with the market, by meeting the trade in general and competition in selling our goods. The market in our goods follows rods pretty well.

If there is a demand for bars, there is a demand for our goods, because, as a rule, the consumers of bars also are consumers of shafting. That may not be absolutely in every case.

Q. But generally speaking?

A. Generally speaking.

Q. Are you in pretty close touch with the market from day to day?

A. I think so.

Q. I mean the market for steel bars.

A. I think so.

Q. Is there any competition for your purchases of bars?

A. We have always found competition.

Q. What kind of competition, keen or otherwise?

A. Very keen, most generally. Of course there are times in normal business when it is not so keen.

Q. Times when the consumers of bars are competing to get them?

A. Yes.

Q. Do you read the Iron Age?

A. Well, not every week, but I make it a rule to read the Iron Age.

Q. Do you occasionally read its market quotations on bar mill products?

A. Yes, but I read the Iron Trade Review more than the Iron Age, because it is a daily affair, and it comes to my hands.

Q. You read the quotations in that, do you not?

A. Yes.

Q. As a general thing, how do the prices that you can get your material at compare with prices quoted in the Iron Age and the Iron Trade Review?

A. We can generally purchase at a less price than the quotation; that is, the quotations published in the Iron Age or Iron Trade Review.

Q. If there are any exceptions to that statement, what would they be?

A. I do not know of any; I am just saying if there is; it may be that there is no exception. I do not want to state that as a fact.

Q. At this time do you remember any occasion on which you have had to pay as high a price as was quoted in the Iron Age for your bar mill supplies?

A. I think we have, but not often.

Q. What kind of times were those?

A. Times like we have had three and nine months ago.

Q. What was the condition of the mills then?

A. They were overrun with orders, and I think this occasion may have been with the Republic Iron & Steel, at a time when they were flooded with business, and unfortunately a few months ago they tore down and dismantled a number of mills, which made their competition with us less the past year than at any other time.

Q. They are rebuilding?

A. They are rebuilding, but last year they began dismantling some of their bar mills, which practically put them out of business.

Q. They do not show any signs of going out of the bar business permanently, do they?

A. No, they are spending, I guess, several million dollars in equipping——

Mr. Colton: I object to that as hearsay.

By Mr. Reed:

Q. Finish your answer. They are spending several millions, you started.

A. I understand they are spending several million dollars in equipping more up-to-date bar mills.

Q. In their attitude towards you, Mr. Beegle, have you ever observed any indication of a combination or agreement among bar makers to fix prices?

Mr. Colton: I object to that on the ground that that calls for a conclusion of the witness from a state of facts that may be in his own mind and not disclosed to the court.

The Witness: No, sir; I never have.

By Mr. Reed:

Q. Now, Mr. Beegle, using 100,000 tons of bar mill products in a year, I judge that your requirements exceed the production of a great many, certainly of the smaller steel works?

A. Oh, yes; I do not know whether I can say yes on that, though. I presume there are small rolling mill plants that could not roll as much as 100,000 tons in a year. These are approximate figures, of course.

Q. Our record is full of statistics showing the capacity of different steel works to be less than that. That was more introductory than anything else. Have you ever considered the question of going into the business of rolling iron and steel bars; if not, why not?

Mr. Colton: I object to that as incompetent and irrelevant.

The Witness: We have thought of such a thing at times in the past, but we have never concluded to enter the bar business, rolling bars.

By Mr. Reed:

Q. What is your reason for not going into it?

Mr. Colton: Objected to as irrelevant.

The Witness: I might say there were two reasons: One is it costs a lot of money to go into that line. It would necessitate going back further than the bars; you cannot go into

the bar business unless you have billets and pig iron and so forth, and we have viewed the matter from all standpoints, and we have been of the opinion that we have been well off with the competition.

By Mr. Reed:

Q. You think you have been getting the benefit of competition?

A. We have always been able to buy on fair competition.

Mr. Colton: I would like to object to that as leading.

By Mr. Reed:

Q. How long do you think you have been getting the benefit of fair competition?

A. Always.

Q. Now, in your output of steel shafting, Mr. Beegle, do you compete with any of the Steel Corporation's subsidiaries?

A. We compete with the American Steel & Wire Company.

Q. Do they make steel shafting?

A. Yes, sir.

Q. How does their output of steel shafting compare with yours?

A. Speaking of steel shafting, our business is known as a shafting business, but from my point of view, why, a lot of material that we make is not for shafting purposes, so I wish to emphasize the fact, in speaking of steel shafting, what is our business; we speak of it as bright finished steel, but a large percentage is not used for shafting purposes, so that in answering the question with that in mind I should say that the American Steel & Wire Company, while I have no absolute knowledge as to their capacity in the production of materials in competition with ours, I should say that it ran probably 25 to 33 per cent.

Q. As much as yours?

A. Yes; as much as ours.

Q. In other words you are from three to four times as big as they in that product?

A. Sometimes some of us feel larger than we are, but from what knowledge we have of the trade and knowing to whom they sell largely, and what we sell, I should say that they

make from 25 to 33 per cent. as much tonnage as we do in the bright finished steel; that is not counting wires, because we are not in the wire business.

Q. I understand. What other competitors have you who are as large or larger in those products than the American Steel & Wire Company?

MR. COLTON: Would you define what you mean by those products?

By MR. REED:

Q. I mean the bright finished products which Mr. Beegle's company makes and sells.

A. Jones & Laughlin is the largest.

Q. Are they larger than you in that product?

A. Well, they tell the trade so.

Q. What other large ones are there?

A. Columbia Steel——

MR. DICKINSON: When you speak of that product do you mean other than wire or including——

MR. REED: I mean, and I have said three times now, and I think this is the fourth time, the bright steel products, which includes shafting but does not include wire; products made by the Union Drawn Steel Company.

THE WITNESS: Columbia Steel & Shafting Company, Pittsburgh; the Cambria Steel Company, of Johnstown; the Cumberland Steel Company, of Cumberland, Maryland.

By MR. REED:

Q. Are there any more?

A. There are some others.

Q. Does each of those that you have named produce as much or more than the Steel Corporation of those products?

A. Well, not having absolute facts, I can only answer that as a man giving his opinion from observation or knowledge that he gains from the trade, I should say that the Columbia Steel Shafting people make more than they do.

Q. More than the Steel & Wire Company?

A. More than the Steel & Wire Company; the Cambria Steel perhaps one-half or two-thirds as much.

Q. Jones & Laughlin, you have already described them?

A. Jones & Laughlin I think make somewhere along close to what we do; that is to say, they state that they make more, and tell the trade so.

Q. How about the Cumberland Company?

A. The Cumberland people, I should judge make very close to the tonnage of the American Steel & Wire Company.

Q. Is there any competition in this business of selling steel shafting?

A. Lots of it.

Q. Is it limited or restrained by any agreements or pools or understandings as to prices?

A. No, sir.

Q. How long has it been that there have been no agreements?

A. We have not had any agreement or pool since—we never had but one pool, considered as a pool—that was in 1903 and 1904, I believe.

Q. That is the one Mr. Temple was commissioner of?

A. Yes, sir.

Q. You are competing with the American Steel & Wire Company on this product, are you?

A. Yes, sir.

Q. Has it been your experience that the Carnegie Steel Company has endeavored to aid the Steel & Wire Company against you?

MR. COLTON: I object to that on the ground it calls for a conclusion upon a state of facts that may be in the witness' mind not disclosed to the court.

THE WITNESS: I have no knowledge of their ever having aided the American Steel & Wire as against us.

By MR. REED:

Q. Have there been times when prices in your products got down pretty close to the price of your raw material?

A. Yes, sir.

Q. What has been the attitude of the Carnegie Steel Company at such times toward making you low prices or otherwise?

A. They follow the market conditions down as a rule, and generally are the first to do it.

Q. Of course you are speaking only of your own business?

A. I can only speak of my own business, of course.

Q. Have they made any effort to assist you in holding particular classes of trade in times of low prices?

A. Yes, occasionally.

Q. How would they do that?

A. By making us a special price to enable us to hold a certain class of trade.

Q. Was that class of trade sometimes one in which the American Steel & Wire Company was competing?

A. Well, I should say so, but I don't know; I could not say exactly. I might say this: At least in those lines there is no reason why they should not be competing; whether they were or not I can not say.

Q. Were they lines of product that they make?

A. Yes.

Q. By "they" I mean the American Steel & Wire Company.

A. Yes.

Q. You understood that, didn't you?

A. Yes.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS

FREDERICK N. BEEGLE

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION

By Mr. Colton:

Q. Do you recall, Mr. Beegle, a severe break in the price of bars at the time that Gates is supposed to have made a cut in wire products of about $20 a ton?

A. Yes.

Q. That occurred in about 1900, did it not?

A. I think so. I have not the exact date.

Q. And that break in the price of wire was accompanied by a general break in the price of steel products, was it not?

A. Yes, sir; everything.

Q. And you, of course, are more familiar with the break in so far as it related to steel bars?

A. Yes, sir.

Q. And the price of steel bars fell something like $20 a ton also?

A. Covering a short period of time. I do not think there was such a radical break made in the price; that is, not all of a sudden.

Q. But in the course of several months it went down that much?

A. Yes; in the course of a very few months.

Q. Before the formation of the United States Steel Corporation you were purchasing bars from certain mills that were taken over by the American Steel Hoop Company?

A. Yes.

Q. And the National Steel Company?

A. Yes.

Q. And you also were purchasing bars from the Carnegie Steel Company, were you not?

A. Oh, I would dislike to say that we were at that time, but my recollection is that we were purchasing bars from Carnegie Steel prior to the time that these institutions, the National Steel and the American Steel Hoop——

Q. Went into the Corporation?

A. Yes.

Q. And those companies were in competition with one another for your business?

A. Yes, sir.

Q. And those companies had some mills, or at least the National Company had a mill in Youngstown, Ohio, did it not?

A. I think the National had a mill in Youngstown, yes.

Q. And the American Steel Hoop had mills——

A. They had mills in Youngstown. I think the National Steel also had mills in Ohio. I think they absorbed the old

Aetna and La Belle plants, did they not? That is my recollection.

Q. Anyway, those different companies were located in different States, and had mills in different States?

A. Yes.

Q. Except that the Carnegie Company's bar mill, so far as you know—or mills, whichever it was—were located at or near Pittsburgh?

A. Yes.

Q. Within the State of Pennsylvania?

A. Well, I think they had some mills—I would not say; I have forgotten whether they had any mills at Youngstown prior to the absorption of these—I do not believe they had. I think not.

Q. About what tonnage were you purchasing in the year 1900, of steel bars?

A. Well, I could not tell you exactly, but my judgment would say somewhere along about 25,000 or 30,000 tons.

Q. How did that vary from 1901 to 1904, inclusive?

A. It gradually grew. It grew yearly, except for probably two or three of the years, when there was a collapse, as in 1907; but it always got greater. The country had become larger, and naturally the consumption was greater.

Q. On your direct examination you spoke of the year 1909 as a year of the panic. Was not that a year of rather large tonnage? Was not that an inadvertence on your part?

A. The panic was in 1906 and 1907—or 1907.

Q. It was in 1907, yes.

A. That was the year of the panic, yes; 1907 and 1908 were bad years.

Q. From the point of view of production?

A. Yes, 1909 was very much better.

Q. There was a very severe break in the price of bars in 1909, was there not, or have you that data in your mind?

A. I have not that data in mind, but there was a break in 1909, and bars went away down.

Q. Do you remember a break that occurred in bars in 1909—have you that break in mind?

A. Yes.

Q. About what was the extent of that break, Mr. Beegle?

A. My recollection is that the price got down to about $1.05 at that time, probably—well, I don't remember exactly.

Q. It runs in your observation that in steel bars the Carnegie Company was among the first to go down in steel bars, I believe you testified on your direct examination?

A. Yes.

Q. Did they go down as low as $1.05, so far as you know?

A. If that was the period of that last break, they did.

Q. Did you have some contract with them during 1911 that fixes that figure of $1.05 in your mind?

A. I do not know that I have any contracts that would fix that figure, but the contract was probably made at a higher price before the bad break, and the reduction was made, notwithstanding, at that time.

Q. Now, from 1901 down to about 1910 you have only a very general recollection as to the extent of the variation for any given year, have you not?

A. That is all.

Q. Now, during the period of 1913, about what percentage of your tonnage has been bought from the Carnegie Company in steel bars?

A. That is the first nine months of this year; it would run about 73 per cent.

Q. Did you make a contract with the Carnegie Steel Company this year?

A. Yes, sir.

Q. Covering what tonnage?

A. I have forgotten exactly, but I think around 40,000 tons.

Q. And at what base price did you get that?

A. My recollection is $1.35.

Q. When did you make that contract?

A. I don't remember exactly, but I think along about April or May.

Q. Of this year?

A. I could have given you the exact date if I had known you were after information like that.

Q. Since 1901 you have been buying in the neighborhood of 60 per cent. from the Carnegie, in steel bars?

A. Yes; it varies from 60 per cent. on up. The last year was the greatest percentage we ever purchased from them.

MR. REED: That is 1912?

THE WITNESS: Yes; 1912 or 1913, our percentage was greater from the Carnegie than ever before.

By MR. COLTON:

Q. Was that the largest contract that you made with the Carnegie Company at any time since 1901?

A. The largest?

Q. Yes, at any one time.

A. I think it has been large—I have forgotten whether that contract was for 40,000 or 50,000 tons. There is a variation from maximum to minimum, you know, and I think perhaps that is about as large. We have made a contract for 40,000 or 50,000 tons with them at one time.

Q. At the time you made that particular contract you did not take any bids on that exact amount of tonnage from other makers, did you?

A. No, sir.

Q. You have already stated that for the years 1901 and 1910 you only remember in a general way in regard to prices. What contracts and what prices do you specifically remember from 1910 on? That is, for the years 1911, 1912 and 1913?

A. Well, I could not give you the exact dates, except to say there were various contracts made from time to time.

Q. And you cannot give the bidders on a given tonnage for any one of the contracts which you let, and the prices that they bid?

A. No, sir; I should say to you that we are not in the habit of letting this tonnage of ours in the same manner as you would let a contract for a building, or in the same manner in which at some seasons you apply to people for their requirements, like the agricultural implement companies, for instance; they invariably figure out a proposition and figure it out at a certain time of the year, what their requirements will be for the whole season, at a certain time of the year, and it has generally been customary with such people and some others too to mail a proposition or inquiry to every Tom, Dick or Harry,

no matter whether they knew that the concern could not figure on ten per cent. of it; but we do not do that as a rule, because our business is so large—I hate to say this in public, because it may revert against us—but the facts are that it scares them off.

Q. The small concerns cannot handle the business, the tonnage is so great that there are only a few concerns that can handle the tonnage that you ask for?

A. Yes.

Q. At the time you got $1.35 from the Carnegie Steel Company on this 1913 contract, the market price was base f. o. b. Pittsburgh—that was about $1.40?

A. $1.40, I believe; I am not sure whether the Iron Age quoted $1.45 or not, but a great many people were asking $1.45 at that time.

Q. But it was in the neighborhood of $1.40?

A. The Iron Age quoted $1.40 or $1.45.

Q. Was that delivered?

A. No, sir.

Q. That was f. o. b. Pittsburgh?

A. Yes.

Q. You are engaged in manufacturing—generally speaking, your product is shafting?

A. Yes.

Q. Now, you may assume that the Steel Corporation manufactures 16,900,000 tons of ingots; in tonnage the Steel Corporation's production in shafting is insignificant, is it not?

MR. REED: On what do you base your assumption?

MR. COLTON: On the annual report for 1912 of the Steel Corporation.

MR. REED: That is the figure it shows, is it?

MR. COLTON: That is the figure it shows.

THE WITNESS: Based on that I should say yes, but based upon the tonnage in that line of business——

By MR. COLTON:

Q. As compared with yours it is fair tonnage?

A. Yes; I mean based upon the consumption of our class of business, which does not run in the millions of tons at all; I

do not know exactly what the tonnage would be, but I would say in round figures 300,000 tons or such a matter.

Q. That would be the maximum?

A. That would be a guess, in our particular lines.

Q. You mean of all the different manufacturers it would be only 300,000 tons?

A. That would be my guess, yes; that is based upon the best business of the last couple of years.

Q. You spoke of shapes: that is, the shapes that are generally classed with shafting, as compared with structural shapes for bridges and buildings?

A. The shapes I spoke of—we make everything practically, not large shapes, you understand, but the lighter finished angles and shafting, small shapes.

Q. Smaller sizes than are usually referred to as structural steel?

A. Nothing of that character. The nearest we furnish to structural shapes that we make would be for making voting machines and things of that sort. We do not make anything for building construction or anything like that.

CAMERON C. SMITH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Pittsburgh.

Q. What is your occupation?

A. Steel casting manufacturer.

Q. What is the name of your company?

A. The Union Steel Casting Company.

Q. Are you an officer of that company?

A. I am.

Q. President?

A. Yes.

Q. How long have you been president?

A. Since 1900.

Q. Prior to that time were you in the steel business?

A. Yes.

Q. With what companies and in what capacities?

A. I engaged in the steel business in 1883 with Wilson, Walker & Company and remained there in a clerical capacity through the organization of Carnegie-Phipps, and later the Carnegie Steel Company. In 1893 I left and went with the Reliance Steel Casting Company as bookkeeper and salesman, where I remained until 1899, when I left and built the plant, the Union Steel Casting Company plant, and was first secretary and general manager, and a year later made president.

Q. How does the Union Steel Casting Company rank in output among producers of steel castings of the United States?

A. As a single plant it is among the largest, making general steel castings.

Q. What raw materials do you use at that plant?

A. Principally basic open hearth scrap and pig iron.

Q. You have your own open hearth furnaces, have you?

A. Yes.

Q. How many have you now?

A. Five.

Q. How many had you in 1899, when you built your plant?

A. One.

Q. Has the growth been gradual?

A. Yes.

Q. What is the tonnage of your annual output of castings?

A. 3,500 tons per month. Annual?

Q. Yes.

A. Some 42,000 tons a year.

Q. Have you built your foundries or have you bought them?

A. Built them.

Q. Did you build steel buildings?

A. Yes.

Q. Where did you get the steel to build them?

A. We purchased it from fabricators in the district.

Q. How much of that steel did you buy from the American Bridge Company?

A. None.

Q. Did they try to get the contracts?

A. They always quoted, but their price was too high.

Q. Was there competition for that business?

A. Yes.

Q. About how much in money value have your contracts for new steel structures amounted to since 1899?

A. Somewhere from $400,000 to $600,000; I haven't the exact figures. There were a great many contracts.

Q. And the Bridge Company were never successful in landing any part of that?

A. They never did any work for us.

Q. About how much scrap do you buy annually?

A. About 25,000 tons.

Q. And from what companies do you buy?

A. The Carnegie Steel, the Carbon Steel Company, Spang, Chalfant & Company, Portsmouth Steel Company, Allegheny Steel Company, Jones & Laughlin, and from some scrap dealers—wherever we can get the class of scrap we want.

Q. Do you buy on a competitive basis?

A. Always.

Q. Do you find that the quotations vary or are they uniform?

A. They vary greatly.

Q. Do you buy from the lowest bidder or do you place your orders on some other basis?

A. We first buy the class of scrap that suits us best from the lowest bidder. Always the lowest bidder on the class of scrap that suits us.

Q. I believe you buy some nails too, do you not?

A. We use nails in making moulds for castings.

Q. About what tonnage of nails do you buy yearly?

A. About 250 tons.

Q. About how many kegs is that, about 25,000?

A. No, about 5,000 kegs.

Q. Twenty kegs to the ton, is it?

A. Yes.

Q. About 5,000 kegs?

A. Yes.

Q. Do you find any variation in the price as quoted to you on nails?

A. Well, yes, we do; we only buy them in carload lots, and we have had frequently variations in price of $1 to $3 a ton, 5 to 15 cents a keg.

Q. How many different concerns bid for your business?

A. Three or four, and then possibly one or two jobbers, too.

Q. Have you got a large part of your nail purchases from the Steel Corporation?

A. Very little of it there; they are always too high.

Q. Somebody else underbids them each time?

A. Yes.

Q. Does the Steel Corporation make steel castings?

A. Yes; they do.

Q. To any considerable extent?

A. Not considering their own requirements; they purchase castings on the outside.

Q. Do they make any castings for sale, so far as you know?

A. Well, I may say no.

Q. Do you think of any exceptions to that?

A. At one time they tried it, but they quit.

Q. They were not successful enough?

A. Well, I cannot answer that.

Q. Then the Steel Corporation is not in competition with you as a producer?

A. No, sir.

Q. I neglected to ask you how long it has been that nails and scrap have been bought by you on a competitive basis—how long it has been that prices have been varying, as you have testified?

A. They always did. Well, scrap I know always did. Nails we buy in smaller quantities, and I am not just as familiar with that. Scrap is the big item with us, and I know it definitely. There may have been a time when there was not a variation in nails, but I don't recall it.

Q. You do not remember the nail market as long ago as thirteen years, do you?

A. Well, we bought some nails then, but I would not want to say definitely what the condition was. I recall the flurry in nails then.

Q. Now, is your business affected at all by the conditions of business in the steel rolling mills?

A. Will you repeat that, please?

(The pending question was repeated by the stenographer.)

By Mr. Reed:

Q. (Continuing) That is to say, is the market for your product affected in any way by the market for rolled steel products?

A. They act in sympathy very greatly, at least.

Q. Do you follow the market for rolled products?

A. As a rule.

Q. I mean, are you acquainted with it from time to time?

A. Well, I know what you mean; not particularly now. I used to be in the business, but late years I have not given it particular attention, not to be an expert, at least.

Q. Mr. Smith, has the existence of the United States Steel Corporation had any effect, good or bad, upon your business?

Mr. Dickinson: That is objected to as irrelevant and calling for a conclusion of the witness.

The Witness: In my judgment it has.

By Mr. Reed:

Q. Just describe what effect, if any, it has had on your business?

A. You mean in the way of competition?

Q. I mean competition or any other way.

A. Before the formation of the Steel Corporation, business ethics I might say were in very bad shape, competitors had no confidence in each other; they resorted to subterfuges, misrepresentations and false statements. That same lack of confidence existed between sellers and many purchasing agents. It was a very undesirable condition in which to do business. For the past seven or ten years—in later times, at any rate—

all of that misunderstanding or misgiving has been displaced by manly, straightforward dealings.

Q. To what extent do you think the Steel Corporation has brought about that change?

A. I do not think it could have been brought about without their influence and example.

Q. Has the benefit of that example extended into collateral industries like yours?

A. It has. I do not think it could be continued without the influence and example of a large unit.

Q. Have you noticed an improvement in the conditions of competition in your own business?

A. Yes, sir; in an ethical way. We still have competition, but we do not try to misrepresent and tell lies any more.

Q. Now, what is the difference, if any, in the attitude of competitors in your line toward one another from the condition that prevailed say fifteen years ago?

A. We are honestly friends now. Then we pretended to be friends, but were the bitterest enemies.

Q. Can you give us any illustrations of that?

A. I do not know just what you mean by illustrations. You want an instance?

Q. Just give us an instance of what you mean by the friendship that prevails to-day.

A. Yes, sir. Perhaps a year and a half ago or two years ago we were in difficulty in making driving wheel centers for the American Locomotive Company at Brooks Works. Hard spots appeared on the counterbalance, which had to be finished, and which caused a great deal of trouble to the Locomotive people. They complained about it, and I personally went there. I knew what caused them. We had to use anchors to carry the core. I found out what their complaint was; asked them if anybody was furnishing driving wheel centers without that difficulty——

MR. DICKINSON: We object to that as *res inter alios*, hearsay and incompetent.

By MR. REED:

Q. Go ahead, Mr Smith; tell us.

A. They said the Pratt & Letchworth Company at Buffalo

furnished them without the hard spots. I went to Buffalo and told the Pratt & Letchworth Company our difficulty and asked them how they avoided it. They showed me a new kind of anchor they had, which did not make hard spots, gave me samples of them, and I got the same kind and had no further trouble. While I was there they told me that they had some difficulty with their sand, that their castings did not clean as well as ours, and wanted to know the trouble. I of course gave them all the help I could and told them that they were not grinding it enough, and stayed with them for about half a day, and they got better results from their sand, and we had no more hard spots in our wheel centers.

We visit each others' plants for the purpose of improving our condition, and have no hesitancy in helping each other when we can.

Q. Was that so fifteen years ago?

A. No, sir.

Q. Did things like that occur in the days of the nineties?

A. We were not allowed in anybody else's plant fifteen years ago, but we all got in clandestinely, but we could get no information willingly. Anything that we did get, we had to go and hire somebody else's man and pay him more money and get him to tell us about it.

Q. You think that kind of thing has pretty well ceased?

A. It has altogether ceased. All competitors are welcomed in our plant now, and we are welcomed in competitors' plants.

Q. How do you think the Steel Corporation has had any share in bringing about that better condition of things?

A. It appears to be an improvement that pervades the entire steel line; and the Steel Corporation, being the largest unit, the most influential unit, and setting a commendable example, has led us all to realize that it is a betterment.

Q. Has the Steel Corporation taken the lead in that kind of thing?

MR. COLTON: We object on the ground the witness is incompetent to answer that.

THE WITNESS: In my judgment they have.

By Mr. Reed:

Q. Now, Mr. Smith, as a practical steel maker of experience, don't you feel that it is dangerous to the smaller concerns to have a company as big as the United States Steel Corporation in the field?

A. I do not.

Q. Why not? Can't it by its mere size put other smaller competitors out of business?

A. I do not think it could put us out.

Q. What do you think about the majority of its smaller competitors?

Mr. Colton: I object on the ground he has already testified that he is not a competitor of the Steel Corporation, and the witness is incompetent.

The Witness: Any that have good management can hold their own.

By Mr. Reed:

Q. In spite of the fact that they do not own their own ore or railroads or steamboats?

A. Yes, sir.

Q. How can that be, Mr. Smith, if they have not all of these additional advantages that the Steel Corporation has, how would they hold their own?

A. The Steel Corporation would necessarily have—or any large concern having those railroads, steamboats, ore bodies and coke ovens, and so forth, would necessarily have to have a larger per ton profit on their finished product, carrying it clear from the ore to the finished product, for they have to show earnings on increased capital to possess railroads, steamship lines, ore bodies and coke ovens. The earnings on the capital invested in a large corporation cannot be larger, in my opinion, than in a smaller corporation as well managed, and I maintain not nearly so high.

Q. In other words, in acquiring those additional advantages they have acquired disadvantages in increased capital charges?

A. Yes, sir; and also in their heavy overhead charges. The very large corporations have to have, for instance, ex-

pensive offices in all the cities of the country, and their executive offices and sales offices are separated from their manufacturing plants. A medium small concern have the executive offices, the sales offices and the practical officers all located at the plant usually, where they are in daily contact with each other, and in daily contact with the men in the shop; it enables them to give their customers better service, to operate the shop to better advantage, and to get more efficient service from the workmen.

Q. Then you feel that the Steel Corporation is not a menace to its competitors merely by reason of its large size?

A. Not where small concerns have good management.

Q. Any competition is a menace to a concern that is badly managed, is it not?

A. Yes, sir.

Q. It is the bad management that is the menace?

A. There is more poor management among smaller concerns, a larger percentage of poor managers among the smaller concerns, than among the larger ones.

Q. Why is that? They have not the opportunity for contrast?

A. A poor manager cannot get into a big concern.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You state that you were at one time connected with some of the Carnegie Companies?

A. Yes, sir.

Q. What Carnegie Companies were you connected with?

A. Wilson-Walker, at first, which was merged into Carnegie, Phipps & Company; and it was later merged into the Carnegie Steel Company.

Q. Who was the manager of that Wilson-Walker Company?

A. What do you mean by manager? The president of the Company?

Q. The president of it, yes.

A. John T. Wilson was president first, and later John Walker.

Q. Who were the other officers—the general manager and so forth?

A. James H. Simpson was manager of the forge department; John J. Matthews was manager of the rolling mill department.

Q. When was that taken over by the Carnegie Company?

A. About 1887, by Carnegie, Phipps & Company.

Q. What did that company make when it was taken over by Carnegie, Phipps & Company?

A. It made universal plates and bars and forgings of various descriptions, locomotive frames, draw-bars, links and pins.

Q. Where was it situated?

A. 29th Street and Allegheny Valley Railroad, Pittsburgh.

Q. Were you connected with any other company that went over into the Carnegie Company besides that?

A. That merged into Carnegie, Phipps & Company.

Q. Did you go along with it?

A. I went along with it; yes, sir.

Q. You stayed with Carnegie, Phipps & Company how long?

A. As long as it lasted; I think about four years.

Q. What date was that?

A. About 1891; I am not sure of those dates.

Q. Did you continue with the successor to that?

A. Yes, sir.

Q. For how long?

A. Until May, 1893.

Q. What did you do then?

A. I went with the Reliance Steel Casting Company.

Q. Where was that situated?

A. 36th Street and Allegheny Railroad, Pittsburgh, Pennsylvania.

Q. What became of the Reliance Company?

A. After I left they merged into the American Steel Foundries.

Q. Where did you go from there?

A. I organized and built the plant with which I am now connected.

Q. When did you organize that?

A. In the spring of 1899.

Q. Did you become president then?

A. No, sir; I was secretary and general manager for the first year.

Q. How long did you remain secretary and general manager?

A. A little over a year.

Q. Then did you become president?

A. Yes, sir.

Q. What was the capital stock of that company?

A. At the present time?

Q. No; at the time it was organized.

A. $62,500.

Q. Was that afterwards increased?

A. Yes, sir.

Q. What was the first increase?

A. I think in the fall of 1899, the same year.

Q. What was it increased to?

A. $92,500.

Q. Was there any subsequent increase?

A. Yes, sir.

Q. When was that?

A. Probably about two years later.

Q. What was the increase to, then?

A. $300,000.

Q. Has there been any increase since then?

A. Yes, sir.

Q. When was that increase?

A. About 1906, I think.

Q. Has there been any subsequent increase?

MR. REED: You have not told us what that increase of 1906 was.

By MR. DICKINSON:

Q. What was that?

A. $1,324,000.

Q. When was that?

A. That was about 1906.

Q. Has there been any subsequent increase?

A. Yes, sir.

Q. When?

A. The first of January, 1911.

Q. What was that to?

A. $1,834,000.

Q. Is that the present capitalization?

A. Yes, sir.

Q. How much of that is preferred stock?

A. None.

Q. There is no distinction between preferred and common, then?

A. There is only one.

Q. There is only one kind of stock?

A. Yes, sir.

Q. During that whole time you have not been in competition with the United States Steel Corporation or its subsidiaries, have you?

A. No, sir.

Q. You have not?

A. Not directly.

Q. You have been a purchaser, have you?

A. Yes.

Q. Of scrap?

A. Yes, sir.

Q. Is scrap quoted at a regular market quotation, or just sold from time to time according to the particular kind and the conditions of the concern that has a surplus of scrap? In other words, has it a market quotation like bars, plate and structural material?

A. It is always quoted in the trade journals.

Q. Is it of various kinds and qualities?

A. There are various kinds and qualities.

Q. What kind is quoted as standard, if there is a standard?

A. As a rule, ordinary melting stock is quoted as a standard, and low phosphorus stock is quoted as a standard.

Q. What kind did you purchase?

A. Low phosphorus stock.

Q. Was that quoted regularly in the market?

A. Yes; until recently. I notice they do not quote it the last couple of months.

Q. How long since they have quoted it?

A. Only a couple of months. It was quoted regularly up until that time.

Q. You say in the particular business in which you were engaged and in which the United States Steel Corporation and its subsidiaries were not your competitors, you had some very bad practices. Is that a fact?

A. Yes, sir.

Q. You said that you lied to each other. Is that a fact?

A. Yes, sir.

Q. And that you used deceptions of various kinds in carrying on the business?

A. I beg pardon. I would like to correct that expression "lied." I believe I used the term.

Q. You used that expression, did you not?

A. I said we quit lying to each other, and——

Q. Yes; you quit——

MR. REED: One moment, Judge. Let him finish his answer.

MR. DICKINSON: All right.

THE WITNESS: I prefer to put that on the basis that we deliberately misrepresented and left people under a wrong impression of the matter.

Q. Well, that is just a euphemistic way of saying lying?

A. About the same.

Q. But you did use the word here?

A. I said we quit lying.

Q. You said you quit lying?

A. Yes.

Q. Then you did lie, in order to quit?

A. We at least misrepresented.

Q. Well, if you quit lying, you assume that you had been lying?

A. That is a common assumption.

Q. How?

A. That would be inferred.

Q. And that is what you meant when you said you quit lying?

A. Yes.

Q. When did you quit lying?

A. That was a gradual outgrowth of the change of methods of doing business.

Q. You tapered off in lying, did you?

A. Yes, if you want to put it that way.

Q. Just tell me the percentages in which you quit lying, and the years it began, and how you tapered off, and when you got to the state when there was no more lying.

A. Along about 1902 the steel foundry men got to meeting together and to cultivate each other's friendship, and establishing good fellowship among each other, and they began to get confidence in each other and to realize that the other fellow was about as good as himself, and as time grew on we got more confidence in each other——

Q. (Interposing) Up to that time——

MR. REED: I do not think he had finished his answer.

MR. DICKINSON: Well, all right.

THE WITNESS: (Continuing) As time grew on we got more confidence in each other. As to when explicit confidence was established depends on who it was. There are some people in our line yet who have not confidence in others.

By MR. DICKINSON:

Q. You have not reached that supernal state, then, when all have confidence in each other?

A. No, sir.

Q. The millennium has not yet come in your line of business?

A. It has not.

Q. You say in 1902, the time to which there had been lying in business, you began to realize that each one was as good as the other?

A. Yes.

Q. They had been lying to each other?

A. Misrepresented; but we did not wish each other well. After we got to be each other's friends we were glad to see each other succeed. Prior to that in our hearts we rejoiced when the other fellow had a mishap, lost a heat, or things went wrong with him. Now we try to help each other out.

Q. Wait a moment. You were malignant enough in your hearts to rejoice in the misfortunes of those people to whom you had been lying; is that it? Just say whether that is so or whether it is not, and make any explanation about it.

MR. REED: He is trying to say, but cannot if this reprehensible habit of interruption is to continue.

THE WITNESS: It is really true, but I do not like the word "lying" in there.

By MR. DICKINSON:

Q. Well, I never would have thought of it except that you used it, and I took it out of your mouth.

A. I said we quit lying.

Q. That was along about 1902. How far had you progressed in that state of spiritual renovation in 1904 say?

A. So far as our plant was concerned, we did no misrepresentation in 1904.

Q. In 1904; when did you quit?

A. I can not give the date, but as soon as we learned confidence in our competitors and made them our friends.

Q. That was a matter of gradual process, was it?

A. Yes.

Q. So this approach toward a state of verity was a gradual one, was it?

A. It was.

Q. And it began in 1902, did it?

A. Yes.

Q. Well, would you say that about 1904 you had quit that, which you call now, by a euphemism, "misrepresentation"? How about your competitors?

A. A great many of them had.

Q. Some had not?

A. Some had not; had not had an opportunity to be educated yet, had not met with the others and learned to treat them with respect and confidence, that they should treat each other with respect and friendship.

Q. With some of them it was a gradual state of spiritual progression. With any of them was it a sudden conversion, like Saul on his way to Damascus?

A. I didn't hear of any.

Q. You have heard of Saint Paul?

A. I have.

Q. You have not heard of any of them having that sudden conversion?

A. None of them were blinded.

Q. They had their eyes wide open for business?

A. Yes.

Q. Your people with whom you competed and who gradually went through this state of spiritual conversion and approached toward rectitude of treatment of each other, did not meet with the officers of the Steel Corporation, or with the large manufacturers in any of their meetings?

A. No, sir.

Q. Well, now, from the standpoint of morals and regard for consumers, do you think it is right for people who sell to consumers to get together and form pools and fix prices so that the consumers have to accept those prices?

A. No, sir.

Q. You said that you got a large part, as I understand you, of this spiritual influence and example set by the United States Steel Corporation, is that the fact?

A. We followed their leadership to an extent as published in the papers, and in my judgment their example and influence helped all lines of the steel business.

Q. Don't you know that in 1902, 1903 and 1904 subsidiaries of the United States Steel Corporation were in various pools, and that was a matter of common notoriety?

A. I have heard so.

Q. And is that part of the moral teaching that influenced you in the spiritual uplift that you have described?

A. No, sir.

Q. Well, now, then what particular thing in 1902 that was done by the United States Steel Corporation operated upon your mind and heart to produce this spirit of brotherhood that afterwards existed towards your competitors?

A. It is probable I was wrong in attributing anything to the Steel Corporation as early as 1902. Our members began to meet together about 1902. I think it was probably later than even 1904 that the influence of the Steel Corporation was particularly felt in the trade, but in all lines of trade since that time the ethics of business have changed.

Q. But by that time, that is to say, 1904, as you have described, to use the common parlance in religious revivals, you had "come across," hadn't you, before that period?

A. I made that statement, but I have not said that it was 1904; from your question I would say that probably there was not as much confidence in 1904 as I have led you to believe.

Q. Well, those questions were addressed to you, were they not, deliberately, and you understood them, didn't you?

A. Yes, I did, but you see it is a long time since 1904 and I am measuring time by my recollection. I have no dates.

Q. But you did say that this mutual understanding and better appreciation upon the part of you and your competitors began in 1902, didn't you?

A. My recollection is that we first began to meet in 1902.

Q. And then a better understanding began to take place?

A. Began to grow. It was probably later than 1904, maybe two years later, before there was any different confidence.

Q. You say it was two years after what, after 1904?

A. Possibly two years after 1904.

Q. That would make it 1906?

A. Possibly.

Q. So, although you began the spiritual reformation in 1902, you were struggling with the spirit and it did not manifest itself in any striking manner until about four years after that; is that it?

A. Sometimes it is slow.

Q. Well, now, what particular thing occurred between 1902 and 1906 which was done on the part of the United

States Steel Corporation that had such a beneficent uplift upon you and your competitors?

A. I would say probably nothing more than the advertised friendship that was sent broadcast among the larger steel manufacturers, of which the United States Steel Corporation was the leader.

Q. And now you attribute this change, whatever it was, to the effect of this advertisement that you have just described. Is that correct?

A. Yes; at least in part; to a great extent.

Q. Didn't you say to that more than anything else?

A. To a great extent at any rate.

Q. Can you think of any other one thing at that time except this advertisement that operated?

A. Yes, our own meetings operated.

Q. I mean anything upon the part of the Steel Corporation?

A. We followed as nearly as we could the example of the larger manufacturers of which the Steel Corporation was leader.

Q. Did you form any pools?

A. No, sir.

Q. You did not follow them in the evil ways, then?

A. We did not know anything about pools. They did not advertise their pools.

Q. They didn't advertise their pools?

A. No, sir.

Q. Then you think they had one morality for private and another one for public consumption?

A. I don't know.

Q. You don't know about that?

A. No, sir.

Q. What was this advertisement that had such a touching effect upon you as you have described?

A. They met together and had more confidence in each other, visited each other's plants and were friendly with each other.

Q. Now, in 1906 what advertisements did you see and where did you see them?

A. I did not see advertisements.

Q. Oh, you did not see advertisements?

A. There are other ways of advertising besides putting it in the newspaper.

Q. You used the word "advertisement," didn't you?

A. I believe I did.

Q. What did you mean by it?

MR. REED: He used the word "advertised", I think.

MR. DICKINSON: Well, make it "advertised." Mr. Reed is very nice about words.

By MR. DICKINSON:

Q. What did you mean when you spoke of advertised?

A. We learned through rumor, conversation, and so forth, of better conditions which existed, of friendly relations which existed among the other manufacturers.

Q. Now, that was in 1906, was it?

A. Probably.

Q. Now, then, you learned through rumors?

A. And conversations.

Q. Of the better feeling that existed among the larger manufacturers in 1906?

A. Yes, sir.

Q. Is that what operated to complete, as it were, this climbing up Karma reaching up toward Nirvana which you gentlemen finally attained to?

A. That helped.

Q. What were those rumors?

A. That is a hard question to answer, Judge. The rumors were all—I have already said of friendship established among the manufacturers, and confidence; friendship and confidence established among manufacturers; that was common knowledge.

Q. Had you ever heard any rumors before that of "Do unto others as you would have them do unto you"?

A. I had heard that before.

Q. Did that have as much impression on you as these rumors about the meeting of these large manufacturers?

A. The great Golden Rule had not affected the manufacturers in our line at that time very seriously.

Q. Did this rumor that you got about the meeting of large manufacturers galvanize that into life and give it an effectiveness that had hitherto not obtained among you gentlemen; is that it?

A. I want to except to the expression "Do unto others as you would have them do unto you" anyhow. Our principle was more selfish than that.

Q. That is to say, you did the others and they did you; is that it?

A. No, sir.

Q. What was it?

A. We wanted our own plants to succeed, and believed that by being friendly with our competitors and treating them with confidence that we could accomplish it better than by any subterfuge.

Q. That was after the new evangel had been established among you, but I mean before that you did not apply the Golden Rule?

A. No, sir.

Q. Is there anything else that you can mention that was done in 1906 or before that by the United States Steel Corporation which effected any radical change among you and your competitors?

A. I presume that you are trying to lead up to the Gary dinners. I did not attend the Gary dinners, know nothing about them, and I do not want to talk about them.

Q. No, I am not trying to lead up to that. I am not trying to do anything except just to find out what it was that brought about this great moral upheaval. I understood you to attribute it to the United States Steel Corporation, and I want you to fix the date and just the things that were done.

A. I attribute it to the conditions among larger manufacturers of which the Steel Corporation was leader.

Q. And you never attended any of those meetings, did you?

A. I never did.

Q. And whatever you may have heard of what transpired there was entirely by hearsay?

A. Yes, sir; and published reports.

Q. Did you ever hear of the American Steel & Wire Company?

A. Yes, sir.

Q. Did you ever hear of any pools that were carried on and maintained within recent years by the American Steel & Wire Company?

A. Not in that line of business, and I will say no; I have heard of them since, but I did not know about them then.

MR. REED: I must object to the question; pools organized and carried on by the American Steel & Wire Company.

MR. DICKINSON: I accept your suggestion.

By MR. DICKINSON:

Q. Pools of which the American Steel & Wire Company were members. I am much obliged, Mr. Reed. You have heard of that? I will change the question. Have you heard of any wire pools of which the American Steel & Wire Company was a member in recent years?

A. No.

MR. REED: You mean the copper wire pool.

By MR. DICKINSON:

Q. You never heard of that?

A. I have heard rumors of them after they were disrupted, and things of that kind, but while the pool was in operation I knew nothing about it.

Q. But you have heard of it being disrupted?

A. I have heard of pools being disrupted. I do not recall the copper wire pool.

Q. I believe you have already expressed your opinion that you do not regard that as a moral business proceeding, the formation of pools?

A. It is not; no, sir.

MR. DICKINSON: That is all.

(Whereupon an adjournment was taken until Thursday, November 13, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Thursday, November 13, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. BOLLING and MR. REED.

JOSEPH F. GUFFEY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Pittsburgh, Pennsylvania.

Q. How long have you lived there?

A. For twenty-two years past.

Q. What is your occupation?

A. General manager of the Philadelphia Company.

Q. What is the Philadelphia Company?

A. The Philadelphia Company is a holding and operating company. Through its stock ownership it owns the street railway system of Pittsburgh, the electric light system and the artificial gas system, and through direct operation it produces, transports and sells natural gas.

Q. Is it a gas company of any magnitude?

A. It is the largest single gas company, I think, in the world; at least in the United States.

Q. How much gas have you delivered in a single day?

A. 250,000,000 cubic feet.

Q. How long have you been general manager of that company?

A. Since May, 1901.

Q. Does that company use steel pipe?

A. Yes.

Q. Has it been using steel pipe for some time?

A. Yes, for quite a length of time.

Q. Does it also use iron pipe?

A. It uses both; both wrought iron and steel pipe.

Q. Are you familiar with the purchases of iron and steel pipe that have been made by that company since 1901?

A. I am.

Q. Have you any part in the letting of the contracts or the awarding of the orders for the Philadelphia Company?

A. I have.

Q. Who decides which bidder is to be awarded the contract?

A. I do.

Q. Have you been doing so since you became general manager?

A. Yes.

Q. From about how many different concerns do you get quotations on pipe? I do not ask for the exact number.

A. During that period we have got quotations from thirteen different concerns; there are eleven at the present time we get them from.

Q. Do you usually let your contracts or award your orders on a competitive basis?

A. All the time.

Q. How about the quotations that you receive in response to particular inquiries? Do they vary or are they uniform?

A. They vary.

Q. How long has that been so?

A. Ever since I have been connected with the company.

Q. Have you a stock form of inquiry which you send out to the different pipe makers?

A. We have.

Q. Have you a copy of that with you?

A. I have (producing paper).

MR. REED: I would like to have this marked.

(The paper was marked "Defendants' Exhibit 121.")

By MR. REED:

Q. I show you Exhibit 121, and I ask you if that is the original of one of such inquiries?

A. It is. The inquiry addressed to the various companies is sent out under the proper date, and on the left hand part of the page the articles which we desire to purchase are described. The inquiry is then returned with the prices inserted on the right hand part of the inquiry, with the signature of the submitting concern on the bottom of the page. The Youngstown Sheet & Tube Company on this particular inquiry has quoted the prices in hundred foot lots, and not as the other firms do, with so much price per foot. That is the only concern that quotes that way to us.

Q. So that to compare the quotations of that particular concern, the Youngstown Sheet & Tube Company, you read cents instead of dollars?

A. Yes.

Q. So as to get at the price per foot which the other companies quote?

A. Yes.

Q. This is typical in form, is it, of the kind which your company sends out?

A. Yes.

Q. When replies are received is any tabulation made of them?

A. A tabulation is made by the purchasing agent, and the tabulated sheet is submitted to me.

Q. And then do you in any way signify which one of these bidders is to get the order for any particular item?

A. I do; I mark a ring around the bid, and the successful firm which is to get each item.

Q. Have you had search made for any of these original comparative quotation sheets?

A. I have.

Q. Have you the originals of any of them with you?

A. I have.

Q. Will you produce what you have, please?

A. Yes.

(Here the witness produced nineteen original inquiry sheets, which are marked Defendants' Exhibits 122 to 140, both inclusive.)

Q. Mr. Guffey, I show you Defendants' Exhibits 122 to 140, both inclusive, and ask you if those are the original quotation sheets which you have mentioned.

A. They are the original compilation of the quotations.

Q. That is what I mean.

A. Yes, sir.

Q. As submitted to you?

A. As submitted to me by the purchasing agent.

Q. Showing your action in letting the contracts?

A. Yes, sir.

Q. Are those all of the quotation sheets which you could find?

A. All that I could find; yes, sir.

Q. I call your attention now to the first of these; that is, Exhibit 122, dated June 26, 1909, and I ask you to state which of the bidders named on that sheet manufacture only iron pipe?

A. Monongahela Tube; South Chester; A. M. Byers. I am not positive about the Susquehanna Iron Company. I think they make only iron. I have forgotten for the moment.

Q. The Susquehanna Iron Company do make iron pipe, do they?

A. Yes.

Q. And you are not sure whether they also make steel or not?

A. I am not sure; I do not think so.

Q. Then all the other bidders except those make steel pipe?

A. Yes, sir.

Q. Are there any bidders there which make both iron and steel?

A. Yes, sir.

Q. Which are they?

A. Wheeling Steel & Iron Company; Youngstown Sheet &

Tube Company; Spang, Chalfant; and Mark Manufacturing Company.

Q. Is it a fact that steel pipe and iron pipe are for some purposes in competition in your uses?

A. In a great many.

Q. What are the advantages of iron pipe as against steel?

A. I personally think it lasts much longer, and is a better purchase at the same price than steel.

Q. You have a personal preference for it?

A. I have a personal preference for wrought iron pipe over steel.

Q. Tell us which of these companies, then, on Exhibit 122, make only steel pipe, so far as you know.

A. As far as our quotations are concerned, the National Tube.

Q. Does the Mark Manufacturing Company make iron pipe as well as steel?

A. I am not positive; I have forgotten now. All that we have ever purchased from the Mark Manufacturing Company have been steel.

Q. Mr. Guffey, I notice that in some of these exhibits the original quotations appear to have been erased and others substituted for them, as on Exhibit 126 and some others which I do not find at this moment.

A. On Exhibit 126 the original inquiry was for ten to fifteen miles of five-sixteenths thick, 16-inch plain end steel pipe. From the time the inquiry went out before the bid was received we decided, if we could get satisfactory prices, we would lay part of the line with a Matheson joint pipe.

Q. What is the Matheson joint?

A. A special bell and socket joint, in which you put in some lead and caulk it, which is reinforced afterwards with a rubber gasket clamp.

Q. You believe that to be a good joint?

A. I believe that to be the best joint that is made.

Q. What company makes that?

A. The National Tube.

Q. Have they patents on it?

A. No, I think the patents have expired; any company can make it. They are the only company which have the equipment for making it. This year when they cut the price to $1.38½ I gave them part of the order for Matheson joint pipe instead of the plain end pipe.

Q. Take Exhibit 126 of April 28, 1910: What was their first quotation on 16-inch steel pipe with Matheson joint?

A. $1.42½.

Q. Did they make any subsequent reduction of that?

A. They reduced that afterwards to $1.38½.

Q. At what price did you finally let the contract to them?

A. $1.38.

Q. Then they made two reductions in their bid by the time they got the contract?

A. Yes, sir. The low price on the original inquiry was by the Youngstown Sheet & Tube, $1.34 6/10, and if I recall rightly, that was the first big order for 16-inch pipe that we ever gave that concern, because their large mill had only started. They finished the mill that spring.

Q. Then they beat the National Tube Company on the ordinary pipe?

A. Four-tenths of a cent.

Q. And you gave them part of the order?

A. Yes, sir.

Q. You gave them an order for six to seven miles at their price?

A. Yes, sir.

Q. You are speaking now of the Youngstown Sheet & Tube Company?

A. Yes, sir.

Q. And the National Tube Company got from ten to fifteen miles at $1.38 with the Matheson joint?

A. Yes, sir.

Q. I now call your attention to Defendants' Exhibit No. 131, in which there seem to have been a large number of changes made in the original figures. Will you please explain what was the occasion for making those changes?

A. Some of the firms that submitted bids came back and asked to have an opportunity of submitting a second bid; and,

since the contract had not been let, they were given that opportunity.

MR. DICKINSON: What date is that?

MR. REED: This is dated February, 1911.

By MR. REED:

Q. Then these changes that appear here all seem to be reductions in the original bids?

A. Yes, sir.

Q. In some cases those reductions appear to have taken the contracts, and in others they do not. Was that the case?

A. Yes. The contract eventually went to the lowest bidder, if the deliveries in that case were satisfactory.

Q. I notice again, on Defendants' Exhibit 133, dated December 11, 1911, that the bid of Spang-Chalfant & Company appears to have been reduced, but was unsuccessful in getting the contract. Is that correct?

A. Yes, sir; that is correct.

MR. DICKINSON: Was that the lowest there?

MR. REED: No; the lowest in that one appears to have been the National Tube Company.

MR. DICKINSON: Right while you are on that, is that their original lowest?

THE WITNESS: They were the original lowest.

MR. DICKINSON: And the other did not come any lower than that?

THE WITNESS: No. Spang-Chalfant originally bid $1.22, the National Tube Company, $1.09; the Youngstown Sheet & Tube, $1.15; the Mark Manufacturing Company, $1.248.

MR. DICKINSON: Spang-Chalfant & Company came in with a second bid; what was that?

THE WITNESS: $1.12.

MR. DICKINSON: Still above——

THE WITNESS: Three cents above the National Tube.

By MR. REED:

Q. I notice again on Defendants' Exhibit 135 there appear to be a large number of changes. Do those represent the same thing—a reduction in the bid?

A. The same thing; a reduction in the bid.

Q. Were any of those reductions substantial in amount?

A. Yes. There is one there that amounts to $500—two cents a foot and 25,000 feet; $500.

Q. That is Spang-Chalfant & Company's bid on the four-inch tubing?

A. On the 11¾-pound tubing.

Q. The reduction on that one item alone amounts, you say, to $500?

A. To $500.

Q. How about the reduction made by the Wheeling Company on 150,000 feet of six-inch pipe?

A. 2 8/10 cents a foot. That would be $4,200.

Q. On that one item alone?

A. Yes.

Q. Again, on Exhibit 137, I notice a number——

MR. DICKINSON: Will you give the dates each time, please, Mr. Reed?

MR. REED: It is dated March 11, 1912.

THE WITNESS: I will explain that, if I may.

By MR. REED:

Q. Will you explain that, please?

A. The original inquiry called for from 35 to 40 miles of sixteen-inch O. D. plain end steel pipe, 5/16th inch thick, and 18 to 20 miles of twelve-inch O. D. plain end steel pipe, ¼ of an inch thick and 5 to 8 miles 10¾ O. D. plain end steel pipe ¼-inch thick, and 4 to 5 miles ten-inch I. D. 40-pound pipe. The original inquiry, the first inquiry mentioned, was on 35 to 40 miles plain end pipe.

Q. Just a minute. I notice the prices quoted there range around $1 a foot. Am I right in supposing that that item alone involves about $200,000 worth of pipe—that single item?

A. Yes.

Q. Just tell us what took place in the bidding on that.

MR. DICKINSON: Has that date been given yet?

MR. REED: Yes; it was March, 1912.

MR. COLTON: March 11, is it not?

THE WITNESS: March 11th, 1912.

MR. REED: That is what I said—1912.

THE WITNESS: After receiving the original bids we asked the National Tube Company to quote a price on 16-inch pipe, Matheson joint, and when they submitted the price on Matheson joint pipe, 16 inch size, we divided the order between the Mark Manufacturing Company for the plain end pipe—they were awarded fifteen to twenty miles of plain end pipe, and the National Tube Company were awarded twenty to twenty-two miles of 16-inch Matheson joint; and the eighteen to twenty miles of 12-inch pipe was awarded to Spang-Chalfant; and the five to eight miles of 10¾ O. D. pipe was awarded to La Belle Iron Works; and it was decided, after the inquiries went out, not to purchase the four to five miles of 10-inch 40-pound—after the bids had been received, I should say.

Q. That was not let to anyone?

A. That was not let to anyone.

Q. I now call your attention to Defendants' Exhibit No. 139, dated January 21, 1913, which seems to be covered with changes and erasures. Will you please explain those?

A. I will explain in the same way, that the firms submitted a second bid, and the contracts were awarded to the firms that were the lowest and could make the best deliveries.

Q. Is it common for them to follow up their bids in that way and shade them, in the effort to get the contract?

A. Yes, sir.

Q. I call your attention to Defendants' Exhibit 140, dated March 25, 1913, which seems to have been changed in many cases in the same way.

A. The same answer covers that case.

MR. REED: Defendants offer in evidence Defendants' Exhibit 121, being the sample inquiry sheet; also Defendants' Exhibits 122 to 140, both inclusive, being the comparative quotation sheets identified by the witness.

MR. DICKINSON: We would like to reserve our objection until we see further into this matter, because we really are not prepared to frame our objection now.

MR. REED: Very well. The only reason I offer them now is that I have a habit of forgetting to do it if I do not do it at the time.

(The papers referred to were thereupon marked "Defendants' Exhibits (Guffey) No. 121 to 140," inclusive, and will be found in the volume of exhibits.)

Q. Now, you have told us that the quotations on tube and pipe vary. What is the extent of the variation on those bids per ton of product?

A. Well, it has varied since I have been in my present position, twelve years, from $2 to $16 and $17 a ton in the same year.

Q. I call your attention now, for example, to Defendants' Exhibit 127, being a summary of the bids on July 22, 1910, in which the lowest bid appears to be $1.17 per foot and the highest $1.40 per foot, the subject of the bidding being 12-inch inside diameter screw lined pipe, steel. The range of prices on this Exhibit appears to be 23 cents a foot. Now, I wish you would translate that into terms of dollars per ton, just for our assistance. Can you do that?

Mr. Dickinson: Before he answers, that is objected to because the question assumes this as an example, and if it is meant by that to imply to the witness that his answer is to treat this as a constant illustration running over that period, it is objected to as incompetent.

The Witness: About $10.22 a ton.

By Mr. Reed:

Q. $10.22 per net ton?

A. Per net ton.

Q. What determines the bidder to which you award the contract?

A. Price.

Q. Any other element?

A. Delivery.

Q. Who is the president of the Philadelphia Company?

A. James H. Reed.

Q. Has he any office in the Carnegie Steel Company?

A. Chairman of the board of directors.

Q. Has he any connection with the Steel Corporation itself?

A. Only as a member of the board of directors.

Q. How long has he been president of the Philadelphia Company?

A. Since February 15 or 16, 1899.

Q. How long, if you know, has he been a director of the Steel Corporation?

A. Since its organization.

Q. So that during the entire life of the Steel Corporation he has been a director in it and president of the Philadelphia Company?

A. Yes.

Q. And has held those two offices concurrently?

A. Yes.

Q. Has he ever attempted to influence you in favor of the National Tube Company in the awarding of any contracts for steel pipe?

A. He has not.

Q. Has he ever attempted to influence you in favor of any company in the Steel Corporation in the letting of any contract of any kind?

A. He has not.

Q. Have you ever favored the Steel Corporation on account of his connection with it?

A. I have not.

Q. Have you ever favored the Steel Corporation on any account except price and delivery and quality?

A. That is the only reason.

Q. Has his connection with the Steel Corporation assisted the Tube Company in any way in getting your business?

A. It has not.

Q. Taking it the other way around, Mr. Guffey, do you sell gas to the Steel Corporation?

A. We do.

Q. In considerable quantities or otherwise?

A. In large quantities.

Q. Has Judge Reed ever attempted to secure favors for the Steel Corporation from the gas company?

A. He has not.

Q. Have you ever given the Steel Corporation favors on account of his common connection?

A. I have not.

Q. Have they ever been influenced in their purchase of gas from you by that common connection?

MR. DICKINSON: I object to that; the witness has not shown himself competent to know and testify about it.

By MR. REED:

Q. (Continuing) So far as you know?

A. Not to my knowledge, no.

Q. Mr. Guffey, I neglected to ask you the extent of your purchases of pipe of all kinds year by year; can you give us the average quantity that you buy annually?

A. Our purchases have varied in the last ten or twelve years from 700-odd tons per year to more than 25,000 tons per year.

Q. In what year did you buy only 700 tons?

A. 1908.

Q. You were not buying any more than you had to?

A. No; we were scrimping along pretty thin.

Q. What were your purchases in 1912?

A. 25,000 tons.

Q. In ordinary years, leaving out panic years, how do your purchases range?

A. From 8,000 to 12,000 tons.

Q. Can you refresh your recollection on that?

A. In 1904 to 1912, with the exception of 1908, we varied from 11,400 tons to 25,070 tons annually.

MR. DICKINSON: Suppose you give the amount each year.

THE WITNESS: In 1904, 12,694 tons.
1905, 25,070 tons.
1906, 13,529 tons.
1907, 12,158 tons.
1908, 737½ tons.
1909, 11,483 tons.
1910, 14,231 tons.
1911, 12,193 tons.
1912, 24,886 tons.

MR. REED: Cross examine.

CROSS EXAMINATION

By Mr. Colton:

Q. Mr. Guffey, in 1901, or thereabouts, you first became familiar with the purchases of pipe—is that a correct designation of your earliest purchases?

A. Yes.

Q. The National Tube Company was for some years the only company manufacturing the larger sizes, from 12 inches up, was it not?

A. Spang-Chalfant had a large furnace at that time, and could roll up to 22 or possibly 24 inch.

Q. Where did you get the information about Spang-Chalfant having facilities to roll from 12 inches up?

A. I remember the fact because we at one time sold them gas, and since our talk this morning I remember the early complete mill they had over there; they had a large mill.

Q. In what way do you say you refreshed your memory?

A. By the man who was formerly general manager there at that mill; I remember about the time he was in Pittsburgh, prior to the reorganization of the concern.

Q. You mean you asked him about that?

A. No; I did not ask him. I refreshed my memory this morning after you asked me.

Q. In what way did you refresh your memory as to what particular time Spang-Chalfant began to manufacture from 12 inches up?

A. As to when a certain man left Pittsburgh.

Q. What date did he leave Pittsburgh?

A. He left Pittsburgh, that pipe concern, in the early days of my active management of the Philadelphia Company.

Q. I want to fix the date as closely as I can. Will you give as nearly as you can that date?

A. I should say in 1902 or 1903.

Q. Prior to 1902 or 1903, so far as you recollect, the National Tube Company was the only company manufacturing pipes of the larger sizes, from 12 inches up?

A. No, Spang-Chalfant had a mill at that time.

Q. From what date?

A. They had had it for a number of years.

Q. Do you recollect how far it went back?

A. I think it was prior to my connection with the gas business. I am satisfied of that because they made part of the large pipe that was used in the early days of the Philadelphia Company, in the middle eighties, in the middle and later eighties.

Q. In the early days, as a matter of fact, did you not give the larger sizes of your purchases to the National Tube Company, because you thought Spang-Chalfant & Company were not adequately equipped?

A. I will answer that correctly, yes.

Q. Then, you did not think that Spang-Chalfant & Company were adequately equipped to manufacture those larger sizes during the early days of your purchases? Is that correct?

A. During the early days of my position as general manager of the Philadelphia Company, we purchased very little pipe, little if any pipe, above twelve inches in diameter, for the reason that the Philadelphia Company, as a gas company, was composed of a consolidation of a number of other gas companies, and the first few years we lifted and relaid lines almost exclusively, from exhausted gas fields to new fields and made them main transportation lines.

Q. Outside of the Spang-Chalfant Company, as to the exact date that they began to manufacture the larger sizes of pipe you do not know; is that correct?

A. I do not know when they started. I am satisfied it was prior to my connection with the Philadelphia Company, however.

Q. Outside of the Spang-Chalfant Company, the National Tube Company was the only company manufacturing the larger sizes of pipe, from twelve inches in diameter up? Is that correct? I mean during the first few years of your connection with the Philadelphia Company.

A. That is my recollection; yes, sir.

Q. What different mills did the National Tube Company have that manufactured the larger sizes, from twelve inches in diameter up?

A. The two that I recall at that period were the Pennsyl-

vania plant in Pittsburgh and the National mill at McKeesport.

Q. Those were separate companies, that were taken over by the National Tube Company?

A. Yes, sir.

Q. And from 1901 to 1907 do you know from what concerns you purchased your larger sizes of pipe?

A. Chiefly from the National Tube Company; that is, above twelve inches in diameter?

Q. Yes; above twelve inches in diameter.

A. From 1901 to 1909 do you know from what concerns you chiefly purchased your larger sizes, from twelve inches up?

A. The National Tube Company, the Mark Manufacturing Company, and Spang-Chalfant & Company.

Q. Do you know the proportion, as between those different concerns, from 1901 up to 1909?

A. I do not.

Q. Do you know when you first purchased any pipe of larger sizes, from twelve inches up, from Spang-Chalfant & Company?

A. I do not recall.

Q. As to each of the other companies, could you give the date, other than the National Tube Company?

A. I could not give you the date as to the National Tube Company, positively.

Q. But with the National Tube Company it extended back over a considerable period of time, did it not?

A. We have purchased pipe from all the companies in that period, and I would not want to say what percentage, because I have not verified it.

Q. That was not the question. I was not asking as to the percentage, but as to the larger sizes, as to whether your purchases of the larger sizes did not go back, with the National Tube Company, to about the time of your first connection with the Philadelphia Company.

A. We purchased very little the first few years, of over twelve inches in diameter.

Q. I am now asking whether it does not go back to that

period of time—whether your purchases of the larger sizes——

A. It does; yes, sir.

Q. As to the other companies, you do not remember when you first began to purchase the larger size pipe from them, do you?

A. We have received inquiries for a number of years—I do not know exactly how long—from Spang-Chalfant & Company as well as the National Tube Company; and my recollection is that the Mark Manufacturing Company gave us our first quotation on large size pipe in 1906 or 1907; that the Youngstown Sheet & Tube Company gave us our first quotation on the larger sizes of pipe in 1910; in January, 1910.

MR. REED: When did Spang-Chalfant & Company begin, as far as you know?

THE WITNESS: They always quoted.

MR. REED: You said, at the beginning of that answer, that you "received inquiries." You mean that you received bids, do you not?

THE WITNESS: I mean that we received bids—prices.

By MR. COLTON:

Q. The Youngstown was not equipped to manufacture that size pipe prior to 1910?

A. That is my recollection; yes, sir.

Q. From what concerns, from 1909 on, have you received quotations on the larger sizes of pipe, from twelve inches in diameter up—the same that we have been referring to?

A. The National Tube Company; Spang-Chalfant & Company; the Youngstown Sheet & Tube Company, and the Mark Manufacturing Company.

Q. Those were all of the companies from whom you received quotations on the larger sizes?

A. Those are all that I recall now.

Q. Are those all of the companies, so far as you know, that are equipped to manufacture the larger sizes?

A. I think so; yes—of plain end pipe. There are other firms who make the larger sizes in riveted joints, you know.

Q. Of those four concerns, do all of them manufacture steel pipe of these larger sizes?

A. Yes, sir.

Q. Do any of them manufacture iron pipe of these larger sizes?

A. They bid on it for you; they will manufacture it if you want to pay the price. Oh, yes, they will manufacture it for you.

Q. The steel pipe is cheaper, then, than the iron pipe?

A. In the larger sizes, for the reason that you can get a ligher weight per foot in steel. It has greater tensile strength, and will stand up in the furnace better, when it is being rolled, than wrought iron will; therefore it requires a heavier thickness of skelp to roll the iron than it does the steel.

Q. If I understand that, your steel is lighter than your iron?

A. In those larger sizes.

Q. Per foot?

A. Yes.

Q. It is lighter per foot?

A. Yes.

Q. And is, therefore, cheaper per foot?

A. Yes, sir.

MR. REED: You are getting Mr. Guffey into a statement that might not look right in the record, Mr. Colton.

By MR. COLTON:

Q. I think I will straighten that out. It is cheaper per foot because you have to put more iron in the pipe, to make the iron thicker, in order to serve your purpose? Is that right?

A. Yes, sir; in order to serve for the rolling purpose.

Q. Then the iron manufacturer is at a disadvantage on those large sizes of pipe in the bidding? That is, he necessarily has to charge a higher rate per foot; is that right?

A. Yes; not more per ton, but more per foot.

MR. REED: You are speaking, now, of puddled iron?

THE WITNESS: I am speaking of puddled iron.

MR. REED: Not of cast iron?

THE WITNESS: Not of cast iron. I am speaking of wrought iron pipe; not cast iron.

By MR. COLTON:

Q. Is that the kind of pipe you were getting? Were you getting the wrought iron pipe? I understood you to say wrought iron pipe.

A. We buy practically altogether wrought iron or steel pipe.

Q. What percentage of the purchases are wrought iron pipe and what percentage are steel?

A. Counting all our purchases of tube, casing and pipe, and line pipe, I should say sixty per cent. are wrought iron and forty per cent. steel.

Q. 60 per cent. is wrought iron and 40 per cent. steel?

A. Covering a number of years.

Q. How long has it been that the National Tube Company does not manufacture wrought iron, if you know?

A. I think they stopped it three years ago.

Q. They ceased to manufacture wrought iron pipe, so far as you know, about three years ago; is that right?

A. Three or four years ago.

Q. What different mills did they have that manufactured wrought iron pipe prior to that, so far as you know?

A. I do not recall.

Q. You think they had some mills engaged in the manufacture of wrought iron pipe?

A. Yes.

Q. And there has always been this competition, of course taking into account the difference in price, due to the difference in weight, between steel pipe and wrought iron pipe?

A. Yes.

Q. The products are competitive then?

A. Yes, because when you get to the smaller sizes the same weights will answer in both wrought iron and steel.

Q. The smaller sizes?

A. Yes, the smaller sizes, the same weight per foot.

Q. Then they compete more on equal terms in the smaller sizes?

A. Yes.

Q. Do you know of your own knowledge anything about the size of the Mark Manufacturing Company.

A. I have never seen their plant.

Q. What are the thirteen different concerns from whom you have purchased at times?

A. I will try to give it to you; I have a list which will refresh my memory: A. M. Byers, La Belle Iron Works——

Q. (Continuing) I will add to that: Please state at the same time any of those companies that have ceased to be in the business. I think you have stated that there was a less number now.

A. Mark Manufacturing Company, Monongahela Tube Company, National Tube Company, Reading Iron Company, Republic Iron & Steel Company, South Chester Tube Company, Spang-Chalfant, Wheeling Steel & Iron Company, Youngstown Sheet & Tube Company, and formerly the Longmead Iron Company and the Susquehanna Iron Company, both of the latter being very small concerns.

MR. REED: What happened to them?

THE WITNESS: They are not running now. Lack of sufficient capital was the trouble with the Susquehanna. The plant is there, but it is not running.

By MR. COLTON:

Q. I would like to have down here together those concerns that manufacture steel, if you would take the same list and name those companies that manufacture steel only at the present time, and those that manufacture steel and iron, and those that manufacture iron only.

A. Yes, sir.

A. M. Byers Company, iron only.

La Belle Iron Works, iron and steel.

Mark Manufacturing Company, steel only.

Monongahela Tube Company, iron only.

National Tube Company, steel only.

Reading Iron Company, iron and steel.

Republic Iron & Steel Company, iron and steel.

MR. REED: This is at the present time?

THE WITNESS: I may be mistaken about that. I know they quoted on steel; I am not sure about iron.

By MR. COLTON:

Q. You are not sure about iron?

A. No, sir.

South Chester Tube Company; chiefly iron; will make some steel.

Spang-Chalfant, iron and steel.

Wheeling Steel & Iron Company, iron and steel.

Youngstown Sheet & Tube Company, iron and steel. That is as I recall those.

Q. Now, many of these different companies have to an increasingly large extent gone into the manufacture of steel as contrasted with iron, the manufacture of steel pipe as contrasted with iron pipe?

A. I should say that the consumption of steel pipe as compared with iron is on the increase. Does that answer your question?

Q. Yes.

A. I cannot say as to each firm; I do not know.

Q. First I will show you these Exhibits and ask you to give the earliest date of any one that you have here; the date of the earliest contract.

MR. REED: They are not contracts.

THE WITNESS: You mean these Exhibits?

MR. COLTON: Orders.

MR. DICKINSON: No, they are not orders; they are inquiries for quotations.

THE WITNESS: June 26, 1909.

By MR. COLTON:

Q. What are they?

A. They are a summary of all bids received on inquiries sent out for quotations for purchase.

Q. You did not find any of these solicitations for bids back of June 26, 1909?

A. No, I had them looked up, and the other stuff had not been preserved.

Q. What search did you make for those returned inquiries for bids received?

A. I asked the purchasing department for a complete file of all the bids received.

Q. I understood you to say the delivery was one of the factors in letting these bids?

A. Frequently it is.

Q. Do those inquiries for bids, or summaries of inquiries for bids, show the time at which each of the different bidders was to deliver?

A. No, but we have other data on that, if they could not deliver: we asked for delivery, and if they could not make delivery they usually said so.

Q. These Exhibits do not show the date of delivery for every one of the different bidders?

A. Oh, no: my attention was called to that by the purchasing department.

Q. Will you begin with the first Exhibit and give the amount of tonnage ordered from each of the concerns, giving the amount ordered in each Exhibit and the date, and giving the Exhibit by number?

A. Defendants' Exhibit 122, June 26, 1909: On June 26, 1909, 46¼ tons of 3-inch tubing was awarded to the Monongahela Tube Company, to be shipped to Clarksburg, West Virginia.

MR. DICKINSON: I simply wanted the tonnage on each one of those exhibits.

MR. REED: I would suggest that if you want him to state the weight per foot of the different items it would be proper to ask him that, but to ask him to sit down and compile a great lot of figures is hardly cross examination, is it?

MR. DICKINSON: I think I can ask him to tell what these things show.

MR. REED: Do you think you have any right to press into service a witness to do figuring for you?

MR. COLTON: You did, Mr. Reed. He seems to be very willing to do it, both on direct and cross.

MR. REED: I haven't the least objection, but I am simply saying this so that Mr. Guffey may know what his rights are.

MR. DICKINSON: If he wants to refuse to do it, that is another matter.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

JOSEPH F. GUFFEY,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By MR. DICKINSON:

Q. The question that was asked you was to state from the several contracts or memorandums of sale that you have produced, and to give the date of each and also the amount of tonnage involved in each, separating the iron and steel.

A. On Defendants' Exhibit 122, date of June 26, 1909, 761½ tons of wrought iron were awarded to the Monongahela Tube Company.

Q. Excuse me. I do not want you to give that necessarily; I am not calling for that.

A. I thought you wanted each one described in tonnage.

Q. Just the tonnage.

MR. DICKINSON: Do you want him to give the other?

MR. REED: I don't care.

MR. DICKINSON: It will make it that much longer.

By MR. DICKINSON:

Q. Just the tonnages in iron and in steel.

A. I have added them up by years; not this way. I will do it in a minute. 1,431 2-5 tons of wrought iron and 2,122 tons of steel.

Q. Are those long or short tons?

A. Net tons, 2,000 pounds.

Q. Now, go to the next one.

A. Defendants' Exhibit 123, dated July 29th, 1909, 720½ tons of wrought iron; no steel.

Defendants' Exhibit 124, dated January, 1910, 5,795½ tons of wrought iron; no steel.

Defendants' Exhibit 125, dated April 21st, 1910, 852 tons of steel; no iron.

Defendants' Exhibit 126, dated April 28th, 1910, 3,066 tons of steel; no wrought iron.

Defendants' Exhibit 127, dated July 22nd, 1910, 360 tons of steel; no wrought iron.

Defendants' Exhibit 128, dated August, 1910, 2,870 tons of steel; no wrought iron.

Defendants' Exhibit 129, dated October 1st, 1910, 1,204 tons of wrought iron.

Defendants' Exhibit 130, dated December 28th, 1910, 187.9 tons wrought iron.

Defendants' Exhibit 131, dated February, 1911, 5,888 tons of wrought iron.

Defendants' Exhibit 132, dated February 4th, 1911, 238 tons steel.

Defendants' Exhibit 133, dated December 12th, 1911, 409 tons steel.

Defendants' Exhibit 134, January 13th, 1912, 580 tons of steel and 681¼ tons of wrought iron.

Defendants' Exhibit 135, dated February 1st, 1912; 6,943.15 tons of wrought iron.

Defendants' Exhibit 136, dated April 25th, 1912, 550 tons of steel.

Defendants' Exhibit 137, dated March 11th, 1912, 7,993 tons of steel.

Defendants' Exhibit 138, dated July 29th, 1912, 1,250 tons of steel.

Defendants' Exhibit 139, dated January 21st, 1913, 8,407 tons of wrought iron.

Defendants' Exhibit 140, dated March 25th, 1913, 1,886 tons of wrought iron and 2,622 tons of steel.

By Mr. Colton:

Q. Do you know to what extent the Spang-Chalfant Company has converted skelp of the Carnegie Company in the early years after the formation of the United States Steel Corporation into pipe?

A. I do not.

Q. So you do not know to what extent the purchases, so far as they were made from the Spang-Chalfant Company, came from the Carnegie Steel, do you?

A. I have not the least idea. I have no way of knowing.

Q. Your recollections as to the variations of prices in 1901 are very vague and indefinite, are they not?

A. Yes; decidedly so.

Q. Is that true of 1902? If not, state what you remember definitely.

A. Oh, I could not give the prices of those years.

Q. How about 1903?

A. I could not give you the prices up until within a few years.

(At the request of Mr. Colton, a preceding question was read as follows:)

"Q. Your recollections as to the variations of prices in 1901 are very vague and indefinite, are they not"?

By Mr. Colton:

Q. (Continuing): I mean as between the different manufacturers. Would your answer be the same?

A. No; as to the different manufacturers? I thought you meant as to the price we paid per ton.

Q. Do you have any definite recollection as to 1901, as to the variation in prices, as between——

A. Oh, I have no recollection, no. I could not try to remember that. There is variation and has been.

Q. The same is true of each of the years up to 1904?

A. Yes, sir.

Q. The same thing is true of each of the years up through 1907?

A. Yes—1910——

Q. Up to the present time?

A. Yes. I would have to refresh my memory.

Q. Then, so far as variations of prices are concerned, you depend on records, do you?

A. Absolutely.

Q. You do not try to keep those in your mind?

A. I do not try to keep them in my mind.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Guffey, have you made a memorandum showing the fluctuations in prices paid for iron and steel pipe between 1901 and 1913?

A. Yes, sir.

Q. Have you it with you?

A. Yes, sir.

Q. Will you produce it, please?

A. Here it is.

(The paper referred to was thereupon marked "Defendants' Exhibit No. 141.")

By MR. REED:

Q. Is this taken from the books of your company?

A. Yes.

Q. I show you Exhibit 141, and ask if that is the memorandum you refer to.

A. Yes, it is.

MR. REED: We offer in evidence Defendants' Exhibit No. 141.

(The paper referred to was thereupon marked "Defendants' Exhibit (Guffey) No. 141, November 13, 1913" and will be found in the volume of Defendants' Exhibits.)

MR. DICKINSON: We reserve our exception until we inquire about it. Do you want to ask him something further about it, Mr. Reed?

MR. REED: I want to ask him something further about other matters.

MR. DICKINSON: We will except to it later, then.

MR. REED: Very well.

By Mr. Reed:

Q. Could you prepare for us a table which would show the tonnage of your purchases from these different bidders since the date of Exhibit 122, which I think is June 26, 1909?

A. I could.

Q. Will you prepare such a statement and send it to us?

A. I will.

Mr. Dickinson: What method do you propose to pursue about that, Mr. Reed?

Mr. Reed: I propose to have Mr. Guffey send it to me, and then to submit it to you; and if it meets with your approval, we will let it go into the record as if he produced it now. If it does not, I will have to get Mr. Guffey to come back and testify to its correctness.

Mr. Dickinson: In all probability he will have to come back, because we want to examine him very thoroughly about that, and probably require the production of the books.

Mr. Reed: That can develop as time goes on, I suppose.

Mr. Dickinson: Yes.

Mr. Reed: I am not offering that statement in evidence now.

Mr. Dickinson: I understand. I just wanted to know what your plan was in regard to it, because I will require the production of the books.

By Mr. Reed:

Q. Mr. Guffey, you have testified that wrought iron and steel pipe were used for the same purposes in a great number of cases, and to that extent were competitive products. On the larger sizes of steel pipe, were there any other varieties of pipe used for the same purpose which were in like manner competitive products?

A. Cast iron pipe was used.

Q. Did your company use any cast iron pipe?

A. Yes.

Q. Of what diameter?

A. 24 and 30 inches.

Q. Did you ever use any riveted pipe?

A. Yes.

Q. Of what diameters?

A. 36 inches.

Q. Those are used for your main transmission lines, are they?

A. Yes, sir.

Q. Do you require the pipe and tubing that you buy to be capable of standing high pressures?

A. It is all tested to a great deal higher pressure than that at which we expect to use it.

Q. How high do those pressures range?

A. That depends on the size of the pipe. Two inch pipe, 2,000 pounds; three and four inch pipe, 1,500 or 1,200 pounds, and the casing decreases in pressure test as the size of the pipe increases.

Q. In actual practice what pressures do you carry in your lines?

A. The highest pressure we have ever carried has been 425 pounds, a number of years ago. Our highest pressure this year was approximately 325 pounds in the lines.

Q. Are there some casings that are subjected to higher pressures than those?

A. Yes; casing, and especially tubing.

Q. How high does that pressure go?

A. The highest we have subjected tubing to, absolute gas pressure, has been 1,375 pounds to the square inch.

MR. DICKINSON: Is that to the cubic inch?

THE WITNESS: No, to the square inch.

By MR. REED:

Q. In the smaller sizes of pipe for your city service lines and work of that kind, has wrought iron any advantage over steel, in your opinion?

A. It has, a great deal.

Q. It does not rust out so quickly?

MR. DICKINSON: One moment. You say so many pounds pressure to the square inch. Does not that mean to the cubic inch?

MR. REED: No; pressure is measured by the square inch.

THE WITNESS: Against the surface.

MR. DICKINSON: To the outside?

THE WITNESS: Yes; pressure measured against a square inch of the diameter of the opening.

(By request the stenographer repeated the pending question as follows:)

"Q. It does not rust out so quickly"?

THE WITNESS: Yes.

That is, in our city service lines.

By MR. REED:

Q. Have you been familiar with the A. M. Byers Company for the last twelve years?

A. Yes, sir.

Q. They make nothing but wrought iron pipe, do they?

A. That is all.

Q. Has their business increased to any extent?

A. Yes; it has increased materially, I should say. They put up a large additional plant, and increased the number of puddling furnaces at the other plant at Girard, Ohio.

Q. So that the industry of making wrought iron pipe is not dead yet, is it?

A. No, it is not, and will not be for some time.

Q. Mr. Guffey, in adding up rather hastily the figures which you gave us of tonnages shown on these quotation sheets I notice in the year 1909, when you have testified you bought something over 11,000 tons of all kinds of pipe, the quotations which you have here cover only 4,300 tons. What is the reason for that shortage?

A. The company changed purchasing agents in June, 1909, and the old records were incomplete, not kept like the present records have been.

Q. You have not the quotation sheets prior to June, 1909?

A. I have not the quotation sheets, but I have data, and I could furnish a list of further pipe that was purchased.

Q. But you haven't the quotation sheets?

A. I haven't the quotation sheets, no.

Q. Have you had them recently, within the last couple of years?

A. No, I have not seen them since the previous purchasing agent left the office.

MR. DICKINSON: While you are in that connection, will you show when the change took place, and ask him who the purchasing agent was?

By MR. REED:

Q. Who was the first purchasing agent?

A. Under my control, it was Captain Matthew Bigger.

Q. When did he cease to be purchasing agent?

A. In the early summer of 1909.

Q. Who succeeded him?

A. James H. Reed, Jr.

Q. And he has continued ever since?

THE WITNESS: He has continued ever since as purchasing agent.

MR. REED: And he is in court today, is he?

THE WITNESS: Yes.

By MR. REED:

Q. The total tonnage of your purchases for 1910, as I recall your testimony this morning, was 14,231 tons, while the figures you have just given us in these quotation sheets represent quotations on only 13,215 tons; that is to say, there is 1016 tons not accounted for. How do you account for the fact that you have not quotations here on which you bought that 1016 tons?

A. I can explain it in either one of two ways; first, after the inquiries were in we might have increased our order on the original inquiry, or later on a rush order, during my absence from the city, the purchasing agent might have purchased additional casing or pipe without waiting to submit it to me after I got home.

Q. In the case of a rush order would there be a comparative statement like this prepared?

A. Not a comparative statement.

Q. For 1911 the total purchases appear to be 12,193 tons, while the quotations here cover only 6,500 tons odd. What would be the reason for that discrepancy?

A. Well, our quotations for our purchases from the year previous are not carried over until the next year; that would decrease one year and increase the next over one year in consumption, and decrease the next year.

Q. At any rate you have known of no other quotation sheets for that year?

A. Absolutely no other quotation sheets.

Q. You have not withheld any quotation sheets for this time?

A. I have not.

Q. Or any other year?

A. I have not.

Q. In 1912 the purchases appear to have been 24,800 tons, while these quotations cover 17,800 tons, a difference of some 7,000 tons. Would that be covered by the same explanation?

A. Yes.

MR. REED: You may cross examine.

RECROSS EXAMINATION.

By MR. COLTON:

Q. How much cast iron did you purchase in 1901?

A. I have forgotten the tonnage; I haven't it with me.

Q. Have you any idea how much it was?

A. I presume we have purchased in the last few years eight to ten thousand tons of cast iron pipe; that is from memory, from my day there.

Q. A very small percentage of your purchases was cast iron pipe?

A. In tonnage it ran very large, for the length of the pipe. For the last few years we have only purchased for city use in some cases.

Q. What do you mean by the last few years?

A. The last seven or eight years, possibly, or ten years.

Q. What was the tonnage that you just gave on that? I want to get it in my mind?

A. I said eight to ten thousand tons. That might be high or low. I haven't refreshed my memory at all on that.

Q. That is for the entire period?

A. Yes.

Q. Well, the proportion of course appears from the statement of the tonnage you put in for various years, from 1904 on, relative percentage?

A. Yes.

Q. And to what use do you put that cast iron pipe principally?

A. Transportation lines on the edge of the city, from one of our main lines in the field, 13 to 14 miles of 24 to 30 inch cast iron pipe to carry 75 pounds pressure.

Q. Does it carry more or less pressure than the other pipe?

A. It carries more pressure than the riveted pipe which it parallels, parallels in general direction.

Q. How about steel pipe?

A. We put in 24 inch plain end steel pipe. Twenty-four inch plain end steel pipe would carry a higher pressure than the average cast iron pipe.

Q. And is steel more than the average weight of riveted pipe?

A. Oh, yes; riveted steel pipe we are talking about.

Q. Yes.

A. I mean riveted steel pipe, 36 inches in diameter.

Q. Then you do not make any purchases of riveted iron pipe?

A. No. I did not make any purchases of the riveted steel pipe; it was there before my day. The riveted steel pipe was prior to my connection with the company.

Q. Since you have been purchasing agent you have not purchased any riveted steel pipe?

A. I haven't purchased any riveted steel pipe.

MR. REED: Since you have been general manager?

THE WITNESS: Since I have been general manager.

By MR. COLTON:

Q. It is not suitable for your purposes?

A. I can buy other pipe cheaper.

Q. But despite that fact you do not consider it satisfactory for your purposes?

MR. REED: You did not understand him; he said he could buy other pipe cheaper.

THE WITNESS: I can buy other pipe cheaper which will give us the same service.

By MR. COLTON:

Q. The steel pipe can be bought cheaper?

A. Yes. I do not think you could buy 36-inch steel pipe rolled. I never heard of it. You might be able to roll it, but it would be very expensive, and I prefer to lay a 24-inch or two 24-inch pipe plain end, to 36-inch pipe riveted; it would have a greater capacity and be able to carry greater pressure.

Q. The Lorain Company of the Steel Corporation rolls pipe?

A. No; I think the National Tube and the McKeesport do too.

Q. I mean that the Lorain also rolls?

A. Yes; the Lorain also rolls.

Q. The Steel Corporation then has how many mills that you know of rolling the larger sizes of pipe, from 12-inch pipe up?

A. I do not know how many mills they have altogether. I cannot answer your question intelligently.

Q. They have three anyway?

A. Yes, three to my knowledge.

Q. How many other mills are there that you know of that roll, outside of the Steel Corporation and the National Tube Company I am now speaking, that roll the large sizes of pipe, from 12-inch up?

A. Mark Manufacturing Company, Spang-Chalfant and the Youngstown Sheet & Tube.

Q. There are three mills on the outside, then?

A. Yes.

Q. You stated that you did not have your quotation sheets back of 1909; is that correct?

A. Yes.

Q. The exact date being June, 1909?

A. Yes.

Q. Take Defendants' Exhibit No. 141: From where did you get the figure for 1901, "High, $61.40"? Did you get it yourself?

A. I got it off the record of purchases, not off our inquiry record. We have got a full record of all our purchasing department, but we have not a full record of all the answers we got to our inquiries.

Q. In what form did you get that?

A. It is kept in the purchasing office, and also in the auditing department. When we construct a line, a new pipe line, and drive a well, we give a well and line order, and we can go back and see what the casing or line of pipe was charged at per foot.

Q. What is the name of that book that you keep those prices in?

A. I do not know whether it would be the line order book or the well order book.

Q. Which one did you get the $61.40 from?

A. That was prepared from the records of the purchasing department.

Q. Did you prepare it?

A. No, sir; I did not. I had it prepared.

Q. Did you prepare any of them?

A. No, sir; I did not prepare any of them. I had them prepared from our records.

Q. When you say it is prepared, this Exhibit, that is a compilation?

A. I have prepared every year a list of our different purchases and the quantities and the prices; that is a compilation of the data.

Q. I do not think you caught my question.

A. That has been compiled in the last week or ten days.

Q. Who gave you this Exhibit?

A. I had the purchasing agent compile that information for me.

Q. You had nothing to do with the preparation of it?

A. In so far as being general manager, I instructed the head of the department to have it prepared from the records and books of the company.

Q. Aside from that you had nothing to do with it?

A. No, sir.

MR. COLTON: I except on the ground the Exhibit itself is secondary, and that the witness is incompetent to testify concerning the same, not having prepared it himself.

By MR. COLTON:

Q. Where did you get Defendants' Exhibits Nos. 122 to 140, inclusive?

MR. REED: Where did he get them in the first place, or where did he get them now?

By MR. COLTON:

Q. Where did you get this particular Exhibit?

A. I got it from the files of the purchasing department of the Philadelphia Company.

Q. Did you see them yourself?

A. No, sir; I had the purchasing agent get them; he runs his own files.

Q. Those were brought to you, then, by the purchasing agent?

A. Yes, sir.

Q. You made no search whatsoever in reference to securing all of the same character of papers as those covered by these Exhibits, did you?

A. I did not.

Q. Can you state how many different contracts there were in the year 1910, offhand?

A. Of purchases of pipe?

Q. Yes.

A. I sign hundreds of orders or requisitions every month.

Q. Can you state in 1910 how many—are these called quotation sheets?

A. They are quotation sheets of large orders of pipe.

Q. Can you state from your own recollection as to how many quotation sheets there were in 1910?

A. No, sir.

Q. Can you do it for any one of the years which these Exhibits Nos. 122 to 140, inclusive, cover?

A. Not without counting them, no sir.

Q. Then you depend entirely on those quotation sheets in regard to the number of quotations; you have not any independent recollection with regard to it?

A. I depend on the files and printed records of the company, not on my memory.

Q. Have you any recollection in respect to what you testified in respect to 1910, other than what appears on the Exhibits for the year 1910?

A. About the placing of the orders for the pipe?

Q. Yes.

A. Yes, I have a good deal of recollection. When a salesman and sales agent comes around to see you you can hardly forget it.

Q. Have you any recollection in respect to quotation sheets for that year other than by looking over those papers?

A. I have not; no, sir.

Q. Can you tell what was the extent of the purchases that lapped over for any one of these different years, and what the amount was, and if so give that amount if you can do it from independent recollection.

A. I cannot give it from any independent recollection.

Q. You have not any independent recollection of that?

A. No, sir; I can remember that this year we have three or four miles of 16-inch pipe due on our last year's purchases from the Mark Manufacturing Company. When that is delivered it is off my memory.

Q. Then your explanation in reference to the difference between the tonnage and the quotation was based on the general theory and not upon any distinct recollection of the particular amount for any of the particular years?

A. Well, we are constantly carrying over on our purchasing orders, so that is the only way I can explain it, because next year might be higher or lower.

Q. Then it is a matter of theory with you and not a matter of distinct recollection?

A. It is a matter of recollection, but I could not give you the distinct items.

Q. I understood you to say, however, that you had no recol-

lection as to the amount for any year, the particular amount for any particular year, that extended over; is that correct?

A. No, sir. I gave you an absolute illustration a moment ago, that I know there are between three and four miles of 16-inch plain end pipe due on our purchase of 1912 from the Mark Manufacturing Company still to be delivered in the year 1913.

Q. How many years do those papers cover?

A. These papers cover from 1909 to date.

Q. Have you any recollection of any amount left over from any other year?

A. Yes, I expect to have a large amount of 6⅝-inch casing left over this year.

Q. But for any year back of that do you have any definite recollection?

A. I do not carry the amounts, no; I know there have been adjustments made and when they are shipped we carry them into stock when time for delivery is up. We may overbuy in some sizes and underbuy on others, you know.

MR. COLTON: That is all.

MR. REED: That is all, Mr. Guffey. Thank you.

JAMES H. REED, JR.

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. You are the purchasing agent of the Philadelphia Company, are you?

A. Yes, sir.

Q. How long have you been such?

A. Since June, 1909.

Q. Have you the custody of the quotation sheets of that company?

A. Yes, sir. Most of those were made up by myself.

Q. From whose records do Exhibits 122 to 140, both inclusive, come?

A. From my records.

Q. Who took them out of the files?

A. I did.

Q. Personally?

A. Personally; out of my own desk.

Q. Had you kept them in your own desk?

A. I had.

Q. Have you kept all of those sheets that have been made since you took office?

A. Every one.

Q. Have you ever destroyed one?

A. No, sir.

Q. Is every one there on the table before you now?

A. If all from 122 to 140 are there, they are.

Q. Have you ever destroyed a quotation sheet that came down to you from your predecessor in office there?

A. I never saw one.

Q. If there were any you never saw them?

A. I never saw them.

Q. Have you brought in every quotation sheet you can find from your office?

A. Yes, sir.

Q. Do you know of any quotation sheets of the company that are in any other office?

A. No; there would not be any in any other office.

Q. What were your instructions as to these quotation sheets?

A. There were no instructions in regard to them. I kept them for my own information.

Q. What were your instructions, I mean, as to producing them for the purpose of this case?

A. Mr. Guffey asked me to let him have them as showing the amounts of pipe that were inquired for, in large contracts.

Q. Did he ask you for all you had, or only for a part?

A. For all of them.

Q. Did you withhold any?

A. No, sir.
Q. Did you destroy any?
A. No, sir.
Q. Do you know of any others than those?
A. No, sir; I do not.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Do those quotation sheets there show all the purchases of iron and steel products from June 26, 1909, the date of the first one, down to March 25, 1913?

A. No, sir.

Q. What purchases of iron pipe were there other than what is shown on those sheets?

A. Very often we would run over an amount contracted for, and have no stock order issued for pipe, and we would get requisitions in our department for sometimes as high as 50,000 or 100,000 feet of a size, with the shipping directions on them. We would then have to get that up in a hurry and very often we would just telephone and get our inquiries over the telephone, and, without making up a sheet of this sort, place the order immediately—over the telephone very often.

Q. So that does not show, then, all of your purchases nor all of the quotations that were made to you?

A. No; because a great many quotations were verbal in that manner.

Q. And they ran over a period from 1909, since you have been there, down to the present time?

A. Yes, sir.

Q. How many of those transactions were there?

A. That would be hard to tell. Sometimes there would be quite a good many very small ones. Very few large ones.

Q. What was the tonnage of the purchases by you of steel pipe and iron pipe, respectively, for your company from the time that you became purchasing agent during the year 1909?

A. You mean both ways?

Q. Yes; the whole thing.

A. That would be pretty hard to figure. I would estimate

about 5,000 or 6,000 tons. That would have to be a rough guess on my part. I never figured it up.

Q. Five or six thousand of the two together, you mean?

A. Yes.

Q. From what period would that be?

A. From about the 1st of June, 1909, until December 31.

Q. 1909?

A. Yes.

Q. That is just a rough estimate on your part?

A. Yes. I never figured it.

Q. What proportion of that was iron and steel? Do you know?

A. The iron contract had been placed when I became purchasing agent; that is, for casing and tubing; so that I think it would probably be a little more of steel than iron.

Q. During that period?

A. Yes; during that period.

Q. For the year 1910 you keep, do you not, an aggregate of all your purchases of iron and steel pipe?

A. Yes, sir.

Q. For each separate year?

A. Yes, sir.

Q. Did you make up this statement that was put in here showing the amount of purchases?

A. Yes, sir; I did.

Q. That gives the amount, does it, as made up by you?

A. Yes.

Q. What did you make that from?

A. I made that from my records of pipe billed, on the orders as sent out.

Q. Do you not keep in your books——

A. We do not keep books in the purchasing department. We pass a bill on the order.

Q. But there are books of the company, are there not, which show the purchases each year?

A. Yes, sir; of course.

Q. Are they not entered up on some book each year, showing the aggregate of purchases made for the year?

A. That would not show the different kinds of pipe.

Q. What would it show?

A. It would show the cost of constructing a line; it would show the expense of building that line, as well as the cost of the pipe.

Q. What accounts have you, and what manner of keeping accounts have you, showing your purchases?

A. I have a copy of every order issued, and on that order is entered the bill for that purchase.

Q. And that does not go into any book?

A. It is filed with my own file books.

Q. But, I mean, is it not entered into some account, in some regular form of bookkeeping? In other words, do not the books of your company show, except from these mere loose sheets——

A. Judge Dickinson, you are asking me a question that I am not familiar with, because that comes under the auditing department.

Q. Then you do not know about that?

A. I am not familiar with the auditing end.

Q. Then all that you are familiar with is that the purchases that are made by you are kept on these sheets?

A. Yes, sir.

Q. And that is kept in a sort of file in which you keep these sheets?

A. Yes, sir.

Q. How about those purchases, other than such as are embraced within these Exhibits? How do you keep those?

A. In the same way.

Q. In what form?

A. On the order blanks that are sent out; on copies of the order blanks.

Q. You have not produced those?

A. I have not. I do not believe any one has. I do not think so. I do not believe Mr. Guffey produced them.

Q. And you have not produced them?

A. No; I have not produced them.

Q. These Exhibits do not cover all of your purchases for that year?

A. No, sir.

Q. And as to the form in which the account may be carried by the auditor, you are not instructed and cannot testify as to that?

A. No, sir.

Q. And all that you know about it is that you have kept these as they have come from time to time?

A. You mean these (indicating)?

Q. Yes; and have produced them at Mr. Guffey's request, and they are all of the bills of that character——

MR. REED: They are not bills, Judge.

MR. DICKINSON: I will not call them bills, then. All of the papers——

THE WITNESS: All of the compilations of inquiries when we got out formal inquiries for contracts.

By MR. DICKINSON:

Q. They are all on that?

A. Absolutely all.

Q. But there are, in addition to that, purchases that were made that are not shown here?

A. Yes.

Q. As purchasing agent, how far does your jurisdiction go? Does it cover all forms of purchases for your company?

A. Yes, sir.

Q. Does it cover rails?

A. No, sir; we do not operate the Pittsburgh Railways Company.

We are the holding company of that company, but they are operated separately.

Q. They have separate bookkeeping?

A. Yes.

Q. And a separate purchasing agent?

A. A separate purchasing agent.

Q. Who is purchasing agent of that company?

A. C. W. Lepper.

Q. That company does make large purchases of rails, does it not?

A. Yes.

REDIRECT EXAMINATION.

By Mr. Reed:

Q. Did you make up this Exhibit 141, which shows high and low prices?

A. Yes.

Q. Is it correct?

A. Yes.

Q. Did you make it personally?

A. Yes.

RECROSS EXAMINATION.

By Mr. Dickinson:

Q. When did you make up this Exhibit 141?

A. Within the past ten days, from other lists that I had, that I would make up from time to time.

Q. Other lists that you had?

A. Yes, sir.

Q. What kind of lists?

A. I had my price record book of all purchases, with prices.

Q. How far have you kept those?

A. Personally I have kept them back to 1909. I have the records rather indefinitely, not accurately at all, back of that.

Q. Not accurately back of that?

A. Not accurately back of that, but then our files will show on each purchase back of that.

Q. Back of 1909 you did not make these records yourself?

A. I got the records I entered here off our purchase orders.

Q. You did not make the original purchase order?

A. No, I do not make any purchase orders; the stenographers do that.

Q. Since 1909 you have had charge of the office?

A. Yes.

Q. And the records made since that time have been made either by you or under your direction and authority?

A. Under my authority, yes.

Q. Back of 1909, this purchasing agent that was changed, the records were made by him and his subordinates?

A. Yes.

Q. And you never made any of those records?

A. No.

Q. And you do not know whether they are accurate or not of your own knowledge?

A. Except that the purchase orders show the prices upon them and the bills passed at those prices.

Q. You found papers which showed certain things which you had had no previous charge of, and which transactions did not transpire under your direction or jurisdiction?

A. That is correct.

Q. And from papers of this character you made up everything on this paper that appears prior to 1909?

A. Yes.

MR. DICKINSON: We object to everything on Defendants' Exhibit No. 141, which appears prior to 1909, as being based upon secondary evidence and hearsay, and upon documents and memoranda that were not made by the witness, and in respect to which he has no personal knowledge.

MR. REED: It is agreed by counsel that after Exhibits 122 to 140, both inclusive, shall have been photographed and reproduced in the printed records of this case, the originals of said exhibits may be returned to the witness last on the stand.

MR. DICKINSON: Very well.

CHARLES H. TODD

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. REED:

Q. Where do you live?

A. Youngstown, Ohio.

Q. What is your occupation?

A. Steel plate manufacturer.

Q. What is the name of the company?

A. The Petroleum Iron Works Company?

Q. What office have you in the Petroleum Iron Works Company?

A. President.

Q. Where are its works located?

A. In Trumbull County, Ohio.

Q. What is the name of the town?

A. We are practically out in the country; we are about three miles from Sharon, Sharon being our nearest mail address.

Q. Sharon, Pennsylvania?

A. Sharon, Pennsylvania; we are about a mile and a half over the State line in Ohio.

Q. How about tank plate; do you buy that?

A. Yes.

Q. About how many tons of tank plate do you buy each year?

A. About 25,000 tons.

Q. You buy some angles too?

A. Yes; some angles and other structural material.

Q. Is that tonnage of angles and other structural material included in the 25,000 tons that you mentioned a moment ago?

A. Yes.

Q. From what companies, Mr. Todd, do you get bids for your supply of angles and plates?

A. We buy from the Carnegie Steel Company, Cambria Steel Company, Jones & Laughlin, and have bought some from the Eastern Steel Company, and also from the La Belle Iron Works.

Q. Do you ever buy from Worth Brothers?

A. We have bought from Worth Brothers, but not just recently.

Q. How do the quotations that you receive range in price? Are the prices that are quoted you by these different companies uniform at any particular time, or do they vary one from the other?

A. We find prices are nearly uniform from all companies in busy seasons, when the mills are busy.

Q. When the mills are not busy what is your experience?

A. Well, we get little concessions from most any of them usually, not to exceed $1 a ton, or something of that kind.

Q. They are all within a dollar a ton of one another, are they?

A. Yes, sir.

MR. DICKINSON: I do not understand the witness exactly. He spoke of concessions. He said the prices were generally the same but he could always get a concession.

MR. REED: He said when the mills were filled up the prices were pretty near uniform; when the mills needed business he could always get a concession.

MR. DICKINSON: Did your question refer to the last statement?

MR. REED: My last question as to the range in price about a dollar a ton referred to the period when he got the concessions.

By MR. REED:

Q. I think Mr. Todd so understood it, did you not?

A. That is what I understood and what I meant to say.

MR. DICKINSON: That makes it clear.

By MR. REED:

Q. Is the competition among these mills that you have named keen or otherwise?

MR. COLTON: I object on the ground it calls for a statement of facts that may be in the witness' own mind and not disclosed to the court, and for a conclusion on those facts without calling for the particular facts themselves.

THE WITNESS: I would consider it keen competition.

By MR. REED:

Q. How long has it been that you have had the benefit of keen competition, Mr. Todd, in your buying of plates and angles?

A. I have found conditions much the same ever since I have been buying plates; that is, since 1892; that is, those conditions have always existed, as I understand.

Q. Do you think you have had the benefit of genuine aggressive competition also for your business?

A. I think so. We have had a range of prices—take three years past or for ten years, ranging from $1.10 to $1.50, and that I think is competition.

MR. REED: Cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. When you have a small order of 100 tons or so you expect to pay the market price and the trade paper price, don't you, practically?

A. Well, we always get quotations from the mills where we know that we can get it at a certain figure.

Q. That corresponds practically to the trade paper price on small orders, does it?

A. Practically so, yes, sir.

Q. And in dull seasons, or what you consider dull seasons, you can get the trade paper price shaded to a greater extent on a large order; is that it?

A. Yes.

Q. And the size of your order has an effect upon the extent to which you can get the trade paper price shaded; is that right?

A. I think so, yes, sir.

Q. And there is among the larger manufacturers a greater uniformity as to price than you find possible with smaller manufacturers, is there not, in plate?

A. How is that?

Q. The larger manufacturers quote more nearly uniform prices than the smaller manufacturers of plate?

A. Well, in a manner that might be true; but we find when the larger mills are crowded with orders that smaller mills will want to take advantage of it and get a premium on their material, and also I believe they are fully as ready to cut the price during the dull periods.

Q. They vary more from the general market price than the larger mills vary at any time; is that correct?

A. I believe that.

MR. REED: Which do you mean were fully as ready to cut the price; the small ones or the big ones?

THE WITNESS: The small ones I think are fully as ready to cut the price. I do not say any more so.

By MR. COLTON:

Q. In dull times both cut the price?

A. Anybody is liable to cut the price for business in dull times.

Q. You have noticed that this comparatively uniform price by the large manufacturers frequently extended over several months, haven't you, in the purchasing of plates?

A. Yes. I find it depends altogether on business conditions.

Q. You have not any very definite recollection as to the production during the year 1909, of plates, have you, the total production?

A. No, I could not say what the prices were during 1909.

Q. You would not undertake to say, would you, that in 1909 the mills were turning out a smaller percentage of their output than they were during the year 1908, the plate mills, would you?

A. Well, I have not got any data on that subject and I would not undertake to say anything definite about it.

Q. And at no time have you had any very distinct information as to just what extent the different large manufacturers were working to the full extent of their capacity, have you?

A. Well, I know——

Q. If so, give the times.

A. I could not give you the definite dates.

MR. REED: You started to answer "Well, I know," and then Mr. Colton said "If so give the time." What were you going to say first?

THE WITNESS: I was going to say I could not name a definite time. I have a recollection within two or three years there have been times the mills were very busy and times when they

were dull, but just what the months were I would not say without going to our records.

By Mr. Colton:

Q. You do not now recollect whether the variation in the prices of plate among the large manufacturers was greater in 1908 or 1909, do you?

A. No, sir.

Q. You do not undertake to testify definitely as to what causes variation in price, do you, from your own knowledge at certain times, a greater variation?

A. No, sir; I would not say definitely what causes the fluctuation. My experience has been that it is the demand for the material.

Q. But you have no present recollection as to the difference in demand for the material in 1908 and 1909; is that right?

A. No, I would not say what the difference was.

Q. And you could not for the different years?

A. No, sir.

Q. And the output and the capacity of the different mills for those years as a matter of statistics would be the best evidence of the demand?

Mr. Reed: I object to that. The witness is not a judge of the best evidence.

By Mr. Colton:

Q. I mean as your opinion; it is better than any recollection on your part.

A. I do not get the question.

Q. Would you judge the extent of the demand to some extent by the extent of the output for given years?

A. Yes, sir.

Q. Now, during periods of uniformity and in which you got concessions from the price, you do not know of your own knowledge whether those concessions were a result at times of violations of understandings that existed among the larger manufacturers, do you?

A. Well, what I know about that is that when we have got concessions for steel on the price we have had men from the

different mills calling on us and stating that their plants were not busy and that they were willing to make some concessions in order to get the tonnage.

Q. What was that concession from; that concession that you speak of was from the current market price, as I understand it?

A. Yes.

Q. That was the price generally quoted, when you speak of the market price, in the trade papers, such as the Iron Age?

A. Yes, sir.

Q. Now, during the last three years have you got a tabulation of your purchases in plates from the different manufacturers?

A. We received in our plants from the Carnegie Steel Company in the three years ending July 1st last 49,000 tons.

Q. And how much have you gotten from the others all told during that same period in plates?

A. About 24,000 tons.

Q. Have you got the years separated on a memorandum?

A. I think I have.

Q. Well, if you will just give us the separate years.

A. From July 1st, 1910, to June 30th, 1911, we received at our plant 14,441 tons from Carnegie mills, and from other mills 13,263 tons. From July 1st, 1911, to June 30th, 1912, the Carnegie mills, 16,505 tons, from other mills 8,391 tons. From July 1st, 1912, to June 30th, 1913, from the Carnegie mills, 16,535 tons; from other mills 3,142 tons.

Q. Prior to those three years that you have just given, you bought from the Carnegie Steel Company about in the same proportion?

A. I believe so.

Q. You mean the general average proportion for the three years, in answering that question, do you not?

A. Well, yes.

Q. Could you give me about what percentage that would be?

A. Well, I think we would buy from mills outside of the Carnegie Steel Company, as a general thing, 40 to 50 per cent. of our material. Some years it might not run that.

Q. For those years that you have just given it runs from a little over 50 per cent. from the Carnegie Company up to about 75 or 80 per cent. from the Carnegie Company? Is that right?

A. In the past three years that is about the way it has run.

Q. And is that about right for the other years?

A. I would think so, yes; although I have no memorandum with me as to the other years.

Q. In regard to angles: Did you testify anything in regard to the price of angles, on your direct examination?

A. I have forgotten for the moment. I have not got it down here.

Q. I mean, as to the variation in price, if you recollect.

A. The price of angles?

Q. Yes.

A. In buying our angles, our prices run along nearly the same as the plate.

Q. And what you have just testified on your cross examination here in respect to plates would hold true pretty closely in respect to angles; is that correct?

A. Yes. The prices are usually not much different.

MR. REED: You mean between plates and angles?

THE WITNESS: Yes.

By MR. COLTON:

Q. And the variation at different times, in so far as there is variation, would correspond to plates, and the uniformity, in so far as there is uniformity, would correspond to plates?

A. I think so, yes.

Q. Your tonnage in angles is very much less than it is in plates—your purchases?

A. Oh, yes; we have only a small tonnage in angles. Probably of the 25,000 tons that we would use in a year, not more than ten or fifteen per cent would be other than plate.

Q. What different companies did you state that you purchased angles from? Would you give those again?

A. Usually from the Carnegie and Jones & Laughlin companies.

Q. What percentage have you given, on a general average, to the Carnegie Company, if you know, of your angle purchases?

A. I could not tell you that.

Q. You do not recollect?

A. No.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. You make boilers and tanks, do you not?

A. No boilers.

Q. Just tanks?

A. Tanks, oil refinery stills, and practically everything that has anything in regard to plate work—riveted pipe; but no boilers.

Q. I had neglected to ask you that on direct examination.

RECROSS EXAMINATION

By MR. COLTON:

Q. I believe you said you bought angles and some structural steel. Did you say that?

A. Yes; such as channels and tees. Our angles, channels and tees I should imagine would be ten to fifteen per cent. of the tonnage that we use.

Q. And, as regards variation and uniformity of price, would the same thing hold true in reference to angles and tees and those structural shapes you have just named as in regard to plates and angles?

A. Yes.

MR. COLTON: That is all.

MR. REED: That is all.

HARRY INMAN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Inman, do you live in New York?

A. Yes, sir.

Q. What is your occupation?

A. Purchasing agent of the Railway Steel Spring Company.

Q. How long have you occupied that office?

A. Since July 1, 1911.

Q. Prior to that time what was your occupation?

A. Assistant general superintendent of the same company, in the spring department.

Q. How long had you been assistant general superintendent of the spring department of the Railway Steel Spring Company?

A. About four years with that title.

Q. How long had you been in that department?

A. Ever since the organization of the company in 1902.

Q. What was your title before it was assistant general superintendent?

A. For about a couple of years I had no title. Prior to that I was assistant purchasing agent. We had no purchasing agent.

Q. How long have you been familiar with the purchases of steel materials that have been made for your spring department in that company?

A. Ever since organization.

Q. In 1902?

A. Since 1902, eleven years.

Q. You were familiar with the quotations that have been received on steel supplies?

A. Always.

Q. In whose charge have those matters been in your department?

A. In mine.

Q. All the time?

A. All the time, yes.

Q. What kind of steel materials do you buy for that purpose?

A. Billets, steel bars, spring bars.

Q. About what tonnage of bars do you buy annually? If it varies, give the approximate range of variation.

A. I should say between—there is a pretty good range—about from 25,000 to 75,000 tons a year.

Q. That is billets?

A. Bars.

Q. And about what tonnage of billets?

A. That is a pretty big range, too; say between 10,000 and 30,000 tons.

Q. From what companies do you buy your bars?

A. We buy bars from the Carnegie Steel Company, the Inland Steel Company and the Cambria.

Q. And the Pennsylvania?

A. And the Pennsylvania; that is all in spring bars.

Q. Do you get quotations from other companies?

A. That is about all that make them.

Q. That is high carbon bars?

A. High carbon, special grade material.

Q. Do the quotations you receive on that product vary, or are they uniform?

A. They vary.

Q. Is there any competition for your business?

A. There has been ever since I have been connected with it.

Q. Ever since 1902?

A. Ever since 1902.

Q. Back in the pool days, about 1902, 1903 and 1904, did any of these companies offer to shade or cut the price to get your business?

A. Yes; I have heard of such things.

Q. Has your business appeared to be big enough to break through any price arrangement of that kind?

A. I think we have always been able to break through any recognized price. There may have been times in the early days when we could not get through for a short time, but ordinarily we could go under.

Q. How about billets? Do you buy your billets from different companies, or get them all from one company?

A. Oh, no, we buy them from most anyone that sells to us, when we can get them.

Q. Give the names of some that you have bought from in recent years.

A. New York State Steel, Carnegie Steel, La Belle Iron Works, Portsmouth Steel, Inland Steel, the Bethelehem, the Pittsburgh Steel Company and the Republic—well, I would not say that that would be a buy or not; we might not have closed it up finally.

Q. How about the Bethlehem?

A. I named that.

Q. Have the quotations you have received on billets varied?

A. Very materially.

Q. How long has that been so?

A. That has been ever since I have been connected with it.

Q. So far as you have been able to tell, has there been competition in the billet business?

A. There has, both as to price and on our part for delivery .

Q. How do you get the quotations; by letter or orally?

A. Oh, I write a letter and get them as a general proposition to make a bid, but I never pay any attention to the letter price, because I never saw one of them yet that would not be shaded.

A. Are these different billet makers willing to shade their written quotations materially?

A. Yes.

Q. How much a ton sometimes?

A. I have known as high as $3.00 and $3.50 a ton under the written price; it depends on how busy they are and how bad they want it.

Q. When the mills are filled up is it hard to get them to cut as much as that in price?

A. Yes, and frequently they will not take business for delivery, finally.

Q. Do you ever read the prices of billets and bars printed in the Iron Age?

A. Occasionally in the Iron Age, but more generally the Iron Trade Review, because it is a daily publication.

Q. How do the prices that you close your contract at contrast with the prices that are quoted in these papers?

A. It depends very much on business. If conditions are good, there will not be very much variation, probably, but when there is a big demand for business, and all the mills have tonnage to sell, they are no criterion at all, in my experience.

Q. Has there been any time since 1902, when your company started, that you felt that you were not getting the benefit of genuine competition?

A. No, I think we have been fighting with them all the time.

Q. You think they have been fighting among themselves for your business?

A. More or less.

Q. You think you have had the benefit of competition, do you?

A. I certainly do.

MR. REED: I think that is all of the direct examination. You do not want to start the cross examination, I believe.

MR. DICKINSON: I might start it, but I will not finish it.

MR. REED: Do just as you please, start it or stop now.

MR. DICKINSON: I will start now.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Who is the president of your company?

A. F. F. Fitzpatrick.

Q. Where does he live, in New York?

A. In New York, Larchmont.

Q. Is this a corporation?

A. Yes.

Q. What is the capital stock of your company?

A. $27,500,000.

Q. That is a large concern for a business of that character, is it not?

A. Yes.

Q. What do you manufacture?

A. Springs of every description, car wheels and steel tires, locomotive and car wheel tires, steel tires, and pressing springs, and so forth.

Q. Where is your trade mostly?

A. Where is it?

Q. Yes, where do you sell?

A. I should say generally most everywhere, but that is in a different department; that is something I don't know anything about. That is the sales department.

Q. You don't know anything about the sales department?

A. No.

Q. Your present office is that of purchasing agent?

A. Yes.

Q. Is there any other title for your department?

A. No, sir.

Q. How long have you had that title?

A. Since July 1, 1911.

Q. Prior to that what was your title?

A. Assistant general superintendent.

Q. And that ran back how far?

A. That ran back—that assistant general superintendent referred only to the spring department, and that ran back about—I should say four years; I would not say positively; five years, possibly.

Q. What were your duties as assistant general superintendent?

A. I handled the spring mills and brought up the spring business entirely, and operated it.

Q. You were in the operating department?

A. In operating I had to buy for the spring department.

Q. You bought for the spring department?

A. Yes.

Q. You did not have the billets?

A. The billets are considered part of our spring department.

Q. Then you bought during that time both springs and billets?

A. Both spring steel and billets.

Q. Did you have entire charge of that during that time yourself?

A. No, I would not say that I had absolute charge at that time.

Q. Did they have no purchasing agent?

A. No purchasing agent.

Q. You said you would not say you had absolute charge; what do you mean by that?

A. At that time our vice-president, and afterwards our president—we had different departments; we had the steel tired wheel department, and the steel tire department and the spring department, each with its separate operating department, and each doing its own purchasing.

Q. What department did you purchase for?

A. The spring department, and I reported to our vice-president and our president, as he was afterwards, since dead.

Q. How long, then, did you purchase for the spring department?

A. From 1902 until 1911.

Q. And then in 1911 you began to purchase for the whole business?

A. I purchased for the whole business.

Q. In this spring department from 1902 to 1911 what character of products did you purchase; billets and spring steel?

A. Billets and spring steel, and generally other things, such as waste and paint, and general supplies.

Q. I am speaking now only as to steel products.

A. Yes.

Q. What do you mean by "spring steel"?

A. Steel which has a consistency to make springs; in other words, a high carbon steel; a steel which will temper.

Q. Is that bars?

A. That is in bars; the way we buy it is in bars.

Q. What proportion of that from 1902 up to 1911, as near as you can give it, was billets, that came under your supervision, now, and what proportion was steel bars?

A. Steel bars would average between, as I said, twenty-

five to seventy-five thousand tons. I think both are outside figures.

Q. Steel bars from 25 to 75 thousand?

A. I think 75,000 is an outside figure, but I want to be on the outside.

Q. It might have been anywhere from 25,000 to 75,000?

A. It might have been 35 to 65 or 75 thousand per year.

Q. For each one of those years?

A. Yes, sir.

Q. So you may have bought just as much in 1902 as you did in 1911?

A. In 1902 as we did in 1911? We might have, but I think we bought more. In fact business conditions in 1902 were such that we were running at a great deal higher capacity, I think than in 1911.

Q. How about 1903; how is that compared with 1911?

A. 1903? I would not want to be positive on that. I would not want to go back so——

Q. You did go back of that. You went back to 1902.

A. I did, but there are reasons, because that was the year the company was organized, and it was my first year in New York; I can place that.

Q. Was there much variation between 1903 and 1904 and 1905?

A. There were variations all through those years, some years we had hardly enough to keep us going, and other years we were running full up, could not touch our orders.

Q. Can you state now which of those years were your lean years, and which were your fat years?

A. I would not want to say positively, except to give my recollection that along in 1906 and 1907 we were going about the limit. Those were the "big times."

Q. Take 1906: Do you know how much of these steel bars you bought in that time?

A. I could not tell you positively; no, sir.

Q. How much billets you bought in 1906?

A. I could not give you that for any particular year.

Q. The same thing about 1907 would you say?

A. I would say the same thing about 1907.

Q. It is a pretty wide margin between 25,000 and 75,000.

A. I admit it, but the condition of our business is such that that is about as close as I could come to it.

Q. You do not feel justified in being more specific?

A. No; if railroads are buying freely we go to the top notch.

Q. In 1911 when you were buying billets and bars and have given approximately these outside figures, your company was buying also for other branches of manufacture?

A. Yes, sir.

Q. Did they buy billets?

A. No.

Q. And did they buy bars?

A. No, sir.

Q. You bought them all, billets and bars?

A. Practically all the billets and bars.

Q. Since 1902?

A. There may be a few small soft bars or something like that, but the quantity would be negligible; they might be for repairs or something.

Q. With the exception of something of that sort that would be too inconsiderable to carry in your mind, from 1902 down to the present time you have been the purchaser of all?

A. Yes, sir.

Q. Now, has anybody been your superior in that; have you been acting under the direction or control, or did you carry the full power of the company so far as it could be exercised in that direction without any restriction or supervision or control?

A. Generally speaking in the early part of the time there was a period there that I did not absolutely.

Q. Now, give us that period.

A. I should say that was along somewheres around 1904 or 1906 or 1907, somewheres along there, but I could not state the period.

Q. You mean there was an interruption?

A. No, no interruption.

Q. I do not mean interruption in the sense you probably think I mean it, but I mean to say, from 1902 up to a certain time you had full sway and then a period ensued during which there was this interregnum, as it were?

A. Yes.

Q. What was the cause of that difference; that is to say, between your authority during this period that was interposed somewhere between 1902 and 1911?

A. Change in the officers of the company.

Q. What change was that?

A. One of our vice presidents who had charge of operations at the time of the organization retired from the company.

Q. When did he retire?

A. I think that was in 1903.

Q. Well, did I understand you to say, I may have misunderstood you, Mr. Inman, that along about 1903 or 1904 you exercised less authority than——

A. That is just what I am saying.

Q. Explain that, please. You have it in your own mind, doubtless, and I have not.

A. At that time Mr. Lang was vice president in charge of operations. I had been with Mr. Lang for ten or eleven years prior, and Mr. Lang stepped out of the company and retired, and Mr. Silverthorn became vice president of operations and in charge of operations, and Mr. Silverthorn seemed to follow it up for the time being. We consulted together more than I had with Mr. Lang.

Q. He was a new broom, was he?

A. Oh, no; not in that sense at all, oh, no. He simply wanted to get in a little closer touch; it was a new branch of the business to him.

Q. What authority did he exercise during that period; I just want to get what your relative jurisdictions were.

A. Authority such as this: We would talk over the question of the purchase of a lot of steel, and he would say, "What do you think you can do?" I would find out what I could do and talk it over with him, and we would settle on the quantities to purchase, and I would go ahead and buy it.

Q. You had the benefit of his advice and assistance?

A. Absolutely.

Q. And the other way?

A. I had the same thing, but we did not get together as

much, because we had been together so long we sort of understood each other.

Q. You had a pretty free hand under either condition?

A. Yes, sir.

Q. In one case you consulted a little more and in the other case a little less?

A. Consulted more in one case; Mr. Silverthorn wanted to be a little more advised.

Q. Now, during the year 1902, that was the year you started, do you know from what concerns you bought billets and steel bars that year, and what proportion you bought from them of your requirement?

A. We bought bars; we did not buy billets.

Q. You bought for steel spring bars?

A. Yes, sir.

Q. From whom, that year?

A. I recall very distinctly we bought from Carnegie, Pennsylvania, Cambria and Crucible.

Q. Did you have a contract with the Carnegie?

A. They were all contracts.

Q. How?

A. They were all contracts.

Q. All written contracts, were they?

A. Yes, sir.

Q. Have you always bought by written contracts?

A. Yes, sir; any big purchase.

Q. And over what periods did those contracts run?

A. They might run over three months, or six months, or they might run over a year; never longer, I think, than a year.

Q. None over a year?

A. No one would protect us for longer than that as a rule.

Q. Who has had charge of those contracts, you?

A. I have had charge of them.

Q. And they are under your custody?

A. They have been; yes, sir; always.

Q. And are now?

A. They are.

(Whereupon an adjournment was taken until to-morrow, Friday, November 14, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND ELEVENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Friday, November 14, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

HARRY INMAN,

the witness under examination at the taking of adjournment, resumed the stand for further examination.

CROSS EXAMINATION (Continued)

By MR. DICKINSON:

Q. You first went with your company in 1902, I think you said?

A. With this company; I was with one of the predecessors for ten years before that.

Q. You went into it from another company that was taken over by it?

A. When the Railway Steel Spring Company was formed I was with the Pickering Spring Company, and that was one of the companies that went to make up the Railway Steel Spring Company.

Q. When you went with this company did you have any pending contracts for the purchase of steel billets or steel bars, and if so what companies were they?

A. The Railway Steel Spring Company of course had no contracts, but the Detroit Steel & Spring Company had a contract with the National Steel Company and with the Carnegie for billets.

Q. And that company was merged into your company?

A. It was merged into our company.

Q. And your company then inherited those contracts?

A. It inherited those contracts.

Q. Take the one with the National Steel; how much did that cover?

A. My recollection is that it covered between 1,500 and 2,000 tons a month.

Q. How long did it run after you took it over?

A. I think that had about a year to run.

Q. Was that an exclusive contract?

A. No, sir.

Q. For the concern that it was made with?

A. No, sir.

Q. Was it a sliding scale contract?

A. No, sir; a flat price.

Q. The one with the National Steel, was that for both bars and billets?

A. Only for billets.

Q. The one with the Carnegie, what was that for?

A. Billets.

Q. How much was that?

A. My recollection is that that was for a minimum of 1,000 tons per month, with a possible maximum of 2,500 tons.

MR. REED: Is that with the Carnegie?

THE WITNESS: With the Carnegie; that is my recollection.

By MR. DICKINSON:

Q. How long was that to run after you took it over?

A. Indefinitely, until notice was given by either party, I think of one year.

Q. One year in advance?

A. One year in advance.

Q. Was that a sliding scale contract?

A. Yes.

Q. Just explain how that would operate?

A. That was based on the price of Bessemer iron, Pittsburgh.

Q. As the iron would go up——?

A. As the iron went up the billets would go up accordingly. There was a spread between the price of iron and the price of billets of, I think, somewhere in the neighborhood of—starting with about $10 a ton.

Q. How would this operate so as to affect the spread between the cost to you of billets and the product which you sold? Do you understand the question?

A. I do not quite catch that.

Q. There was a spread between the cost of your raw material and the sale of your product, was there not?

A. Yes.

Q. Well, now, if iron advanced did that narrow the spread of your products?

A. You mean if iron advanced would that change our selling price?

Q. What I mean to say is, you paid more for billets as iron advanced, did you?

A. Oh, yes.

Q. And that depended entirely upon the price of iron?

A. Entirely upon the price of iron.

Q. And not upon the prices at which you sold?

A. It had nothing to do with the price we sold at.

Q. Now, when was that contract with the National Steel Company made?

A. I could not say definitely as to that, but I think somewhere around 1900. That is my recollection.

Q. And with the Carnegie Company, when was that made?

A. I think that was made about 1901. There was a year's difference between the two.

Q. Was that made after the Carnegie was taken over by the United States Steel Corporation?

A. I could not tell you that, when it was taken over.

Q. Now, did your company after that have any exclusive contracts with the Carnegie, and if so about what year was that made?

A. We had one contract in 1904, which called for all the billets and spring bars which we might order from the Carnegie Steel Company.

Q. Which you might order?

A. "Which we might order" was the exact wording of the contract.

Q. Was there no maximum or minimum?

A. No maximum or minimum in the contract.

Q. Where is that contract?

A. At the office.

Q. I will ask you to produce that, please.

A. Yes.

Q. I asked you about an exclusive contract. In what respect was it exclusive, if you meant to answer me that it was an exclusive contract?

A. As long as the prices on it held, we would want it to be exclusive.

Q. I am not asking that. I am asking you in what respect the contract itself made it exclusive, if any.

MR. REED: I think I will object to it. The contract which you have asked him to produce will be the best evidence of its contents.

MR. DICKINSON: I think it would. I will withdraw the question.

By MR. DICKINSON:

Q. Did you have any other sliding scale contract?

A. One made in 1905.

Q. Did the price under that contract slide up and down, depending upon how the price varied?

A. It varied with the price of iron, up and down.

Q. On Pittsburgh prices?

A. I think it was based on Pittsburgh price.

Q. How did that contract operate upon you? Did iron advance or not?

A. Iron advanced.

Q. What effect was there; did that have an adverse effect upon you in your business?

A. No, because we were protected.

Q. Protected how?

A. With the maximum price of pig iron.

Q. Just explain that, will you?

A. Pig iron could not go above $19 as far as our contract was concerned.

Q. Didn't you have a contract with the Carnegie Steel Company where you were without protection and which brought up the price to where you were to pay them approximately $40?

A. The contract which we inherited might.

Q. Just tell me your recollection of it.

A. I think it did; somewhere in the neighborhood of $40.

Q. Didn't you find that disadvantageous?

A. Yes; it was not a good contract.

Q. In 1904 what proportion of your purchases in billets and steel bars did you get from subsidiaries of the United States Steel Corporation?

A. I could not answer that definitely. The year commencing July 1, 1904?

Q. How?

A. You are asking for the calendar year 1904?

Q. Take the fiscal year, then, beginning July 1, 1904.

A. Ending 1905?

Q. That would be 1904-1905, then, wouldn't it?

A. 1904-1905; fully 90 per cent.

Q. Take 1905-1906.

A. Billets, 100 per cent.

Q. Both kinds?

A. Billets, 100 per cent.

Q. And how much of the other, bars?

A. Bars, I could not answer that definitely; I should say over 75 per cent.

Q. Take 1906-1907.

A. My estimate on that would be about 60 per cent.

Q. 1907-1908?

A. My recollection of that would be possibly somewhere between 40 and 60 per cent.

Q. Now, are you speaking of billets and bars?

A. I am speaking of bars only.

Q. How about billets?

A. Between July, 1905, and July, 1907, our contracts cov-

ered our entire requirements, but owing to deliveries, we bought outside.

Q. Now, take 1907 and 1908 in billets. Did your contracts cover your entire requirements?

A. No, sir.

Q. What percentage of billets? You have already given it to us in bars, I believe. In billets, what percentage?

A. 1907-1908?

Q. Yes, 1907-1908.

A. I do not think in that time we bought anything from the Carnegie.

Q. From whom did you buy?

A. In 1907 we bought from the Portsmouth Steel Company.

Q. You have already given 1907-1908, as I understand you.

A. Not in billets. 1907 we bought from the Portsmouth Steel Company, for one. I cannot recall any other, but I do recall that very distinctly.

Q. That is the only one that you can recall?

A. Yes, sir.

Q. How many billets did you buy that year?

A. We had a lot coming on this old contract.

Q. From the Carnegie?

A. That had been ordered early in 1907.

Q. So a lot of billets you used in 1907 and 1908 were Carnegie billets?

A. Yes, sir.

Q. Take 1908-1909. What proportion of your steel bars now, and billets—give them respectively—did you get from the Carnegie or the subsidiaries of the Steel Corporation.

A. 1908-1909?

Q. Yes.

A. I do not think we got any billets whatever.

Q. Well, what bars?

A. Bars? I believe between 40 and 60 per cent.

Q. In 1909 and 1910 how much billets and bars respectively did you get from the subsidiaries of the United States Steel Corporation?

A. No billets, and about the same percentage of bars.

Q. In 1910 and 1911?

A. About the same percentage of bars.

Q. What do you mean by the same percentage?

A. Forty to sixty.

Q. Forty to sixty per cent.?

A. Somewhere along there. And in billets probably thirty to forty per cent. We had one purchase only. It was the first purchase we had made for some time from the Steel Corporation.

Q. In 1911 and 1912 how much in bars and how much in billets from the subsidiaries of the United States Steel Corporation? I mean from all the subsidiaries of the United States Steel Corporation.

A. Between 50 and 70 per cent. of bars; and probably 50 per cent. of billets. That would be the latter half of 1911, would it not? If that is the case I want to change my answer to the previous question there regarding 1910 and 1911. Mixing the two years confused me.

Q. Very well. Make your explanation.

A. My explanation is that you asked what percentage of our billets in 1910 and 1911 we purchased from the subsidiaries of the Steel Corporation, and I answered that I thought possibly 40 per cent. of billets. We did not buy any billets from the Corporation in the latter half of 1910 and the first half of 1911. The purchase I had in mind was made in November, 1911.

Q. But that was in the fiscal year 1910-1911?

MR. REED: No, Judge.

THE WITNESS: That would be 1911-1912. That is where I got out. It was the latter half of 1911 and the first half of 1912. The purchase was made in November, 1911.

By MR. DICKINSON:

Q. Did you make a contract in the latter part of 1911 with the Carnegie Company for billets?

A. Yes, sir.

Q. What part of that year was it? About what time?

A. November.

Q. How many tons did that cover?

A. 10,000 tons.

Q. What price did you pay?

A. $20.

Q. How did that price compare with the general price that was quoted at that time?

A. It was very low.

Q. How much below the general price was it?

A. I do not know that there was any general price.

Q. That was after the Topping break; after the Republic cut prices and there was a break in the market, was it not?

A. I could not answer as to that.

Q. You know there was a break in the market, do you not?

A. Yes, sir.

Q. And it was understood to have been brought about by the Republic?

A. I understood that.

Q. Was not that in the early part of 1911?

A. I could not answer that definitely of my own knowledge.

Q. You know it was in 1911?

A. I would not positively say that so far as the date is concerned. I know there was such a break, and it was common talk; but when it was I would not attempt to say.

Q. Do you not know that it was followed by heavy cutting in prices and very sharp competition?

A. Oh, yes.

Q. Much sharper than existed before?

A. No; my experience had been that we had had pretty nearly as sharp competition at other times.

Q. I did not mean throughout your experience whether there had ever been as sharp competition; but what I mean to ask is: Were not the prices that followed immediately after the break very low in contrast with the prices that existed before the break, and was not the competition which immediately followed that break very much sharper, so far as prices were concerned and getting business by cutting prices than it was for some period before the break?

A. So far as the prices being lower is concerned, yes,

sir. My experience as regards competition would not indicate it to be very much sharper; that is, I personally did not feel it, although I heard of it.

Q. Is not cutting prices one very sharp way of manifesting competition?

A. Surely.

Q. Do you know of any sharper way than that?

A. I do not.

Q. Have you a contract with Carnegie now?

A. Yes.

Q. When was the last contract made?

A. Some time in the early part of this year; I cannot just say.

Q. Was that for billets, or billets and bars?

A. Bars only.

Q. What was the tonnage embraced in that contract?

A. The contract covered 24,000 tons.

Q. What period was it to run?

A. The last half of this year.

Q. What proportion of your requirements for the last half of this year would that be?

A. Something over 60 per cent.; between 60 and 70 per cent.—less than 70.

Q. Was that on a base price at Pittsburgh?

A. Yes.

Q. What was the price?

A. $1.45.

Q. How did that price compare with what you had been paying?

A. A little higher.

Q. For what period?

A. The previous six months.

Q. From whom did you buy the previous six months?

A. The Carnegie, some.

Q. Well, how much?

A. I think it was 20,000 tons.

Q. What proportion of that six months of your requirements was this 20,000 tons?

A. Just two-thirds.

Q. What was the price on that?

A. I think there were two contracts, $1.35 and $1.40.

Q. Have you any contracts for billets?

A. At the present time, no, sir.

Q. Take the years 1908-1909, 1909-1910, and 1910-1911: What proportion of bars did you use as compared with billets for those years?

A. I cannot even approximate that.

Q. Can you tell how many tons of billets you used in the fiscal year July, 1908, to July, 1909?

A. From memory, no, sir.

Q. Can you give us any approximation of it at all? Say for 1908-1909?

A. I would not want to say; I could not place those dates.

Q. For 1909-1910, then, can you give the amount of billets?

A. I could not place the dates nor the amount of billets either, the tonnage.

Q. Do you use more bars or billets?

A. We use more bars.

Q. How much more in percentage do you use in bars, or did you use in bars, in either of those years than billets?

A. I could not tell you that.

Q. Was not your tonnage of billets as compared with bars very small in those years, 1908-1909 and 1909-1910, and I will add 1910-1911?

A. I would not say that the billet purchases were small compared with bars, but the bars were more than the billets; how much, I would not want to say.

Q. From whom did you buy billets in 1908-1909, and the amounts you bought?

A. I could not tell you the amount; I can tell you whom we bought from in those periods; the New York State Steel Company——

Q. Can you give it for particular years?

MR. REED: I think you stopped him in the middle of the answer; he was going on to tell from whom he bought.

By Mr. Dickinson:

Q. Very well, name them.

A. New York State Steel Company; the Pittsburgh Steel Company; the Portsmouth Steel Company, and the Inland Steel.

Q. Can you tell which of them you bought from for those several years, and the proportionate amount of your purchases?

A. No, sir.

Q. Can't you give us any information on that?

A. I cannot give you any information on that from memory.

Q. Nor approximate the amount each year?

A. I could not approximate that; they dovetail in so closely.

Q. Now, these bars and billets you use, I understand you to say that was a specialty?

A. The bars are a specialty, inasmuch as they are high carbon and hard to make.

Q. Until recently were not the billets the same way?

A. Probably 60 per cent. of our billets were.

Q. Were those bars and that 60 per cent. of billets such as had prices quoted regularly in the Iron Age and other journals, such as were made on standard steel products?

A. There are no quotations in any journal that I know of on spring steel.

Q. Then when you wanted to make these purchases, being a specialty, and there being no printed market quotations, you took it up with the manufacturers that were capable of making them, and reached an agreement?

A. Yes.

REDIRECT EXAMINATION

By Mr. Reed:

Q. In what respect were these billets and bars which you bought specialties?

A. They are high carbon and not always an attractive proposition for a mill to make.

Q. How high does the carbon analysis run?

A. We reject on anything below .90, nine-tenths of one per cent.

Q. And anything over how much?

A. 1.15 per cent.

Q. What is the permissible range of carbon analyses in ordinary billets of the kind that are quoted in the trade papers?

A. Anything under .20.

Q. Is there a common standard of allowances for extra carbon in billets and bars?

A. There is.

Q. Then is it possible to get the market price on your requirements of billets and bars by adding those extras to the quotations on standard billets?

A. It is.

Q. In that way are you able to contrast the prices you are paying with the common quoted printed prices on standard billets?

A. Yes, on billets.

Q. I mean, to get the equivalent price on standard billets you simply deduct the extras from what you are paying, wouldn't you?

A. On billets, yes.

Q. Now, Mr. Inman, you have testified that at the time the Railway Steel Spring Company was formed it inherited a contract with the Carnegie Company, which was on a sliding scale, based on Bessemer pig iron, which owing to the advance of the market price of Bessemer pig brought up your billet price to somewhere around $40, and that you considered that a disadvantageous contract; is that correct?

A. That is correct.

Q. What did you do about it when you found that that contract was working to your disadvantage?

A. We gave notice of cancellation.

Q. And was that notice accepted?

A. It was.

Q. In other words, when you found the contract did not pay you quit it?

A. We quit it, naturally.

Q. Were you sued on that account?

A. We were not; we had that right.

Q. That is the custom in the steel trade, isn't it?

A. That contract gave either party the right to cancel on certain notice.

Q. On what notice, Mr. Inman?

A. I think it was a year.

Q. Did you give a full year's notice, or did you cancel it more abruptly?

A. I think we gave a full year's notice. It might have been a little short of that, but I think it was about a year's notice.

Q. In the steel business what is the custom and what has been the custom for the past twelve or thirteen years and theretofore, as to the obligation of these purchase contracts on the buyers. Is it not the fact that such contracts have been treated as giving the option to the purchaser to take the steel if he wanted to, and to be cancelled by the purchaser as a matter of common custom, whenever they desired to get rid of the contract?

MR. DICKINSON: I object to proving any custom that is contrary to the written contracts, and any specific contracts which obligated the parties to do particular things, it being incompetent to show that any custom could violate the legal obligation of the parties.

THE WITNESS: That has been my experience as regards general bar contracts, contracts for bars, but on a sliding scale proposition I think they have always been rather closely adhered to.

By MR. REED:

Q. Now, you spoke also of a contract that the Carnegie Company made in November, 1911, for billets at $20, delivered at Detroit, which I think you said was the first purchase of billets that you had made from the Carnegie Company for several years. What tonnage of billets was called for by that contract?

A. 10,000 tons.

Q. Did you offer that contract to other billet makers before giving it to Carnegie?

A. Yes, I had been following the market down for two or three months.

Q. To what makers did you offer it?

A. I had been trying to conclude a similar contract with the New York State Steel Company for possibly a month or six weeks or two months prior to that.

Q. Would they take it?

A. Not at the prices I wanted to buy it at.

Q. Was this the price at which you wanted to buy it, $20, Detroit?

A. That was one of the prices.

Q. Could you find anybody that would take the contract except Carnegie?

A. Not at that time.

Q. Did they fix the price, or did you?

A. I did.

Q. Mr. Inman, in Volume II of the Government Exhibits in this case, at page 500, Minutes of Directors of the Carnegie Steel Company, of August 1st, 1904, there appears a statement that Carnegie Company had closed with the Railway Steel Spring Company for 75 per cent. of their requirements. Do you remember any contract made in the year 1904 with the Carnegie Steel Company that called for their supplying you with 75 per cent. of your requirements in any steel products?

A. I have no knowledge of any such contract.

Q. If there had been such a contract in writing would it have come within your custody?

A. I should have expected that it would.

Q. If there had been any such contract would you have learned of it?

MR. DICKINSON: I object to that. He can tell what he knows about it, but to say he would have learned of it——

MR. REED: I will withdraw that.

By MR. REED:

Q. Were you familiar with the supply contracts of the Railway Steel Spring Company at that time?

A. I was.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Do you undertake to say that there was no such contract, and that you know there was no such contract?

A. I do not.

Q. At that time, the period of 1904, that was about the time this vice-president came in that you spoke of, was it not?

A. Yes.

Q. He might have made a contract of that sort and you not know of it?

A. Yes.

Q. He had authority to do it?

A. Absolutely.

Q. And he was not bound to tell you about it, was he?

A. I do not know that he was.

Q. He was your superior, wasn't he?

A. He certainly was.

Q. You spoke of the New York State Steel Company; where is that situated?

A. Buffalo.

Q. Was that company in a position to make the contract covered by the contract which you made with the Carnegie at that time?

A. Yes.

Q. Do you know what their condition was as to contracts, whether they were full up or anything of that sort?

A. Oh, yes, because we had been buying from them right along, and I was in very close touch with their people.

Q. At the time you tendered them, did you know what their ability was to fulfill it? Did you know what their engagements were?

A. I did not know what all their engagements were, of course, but I knew they were willing to take the tonnage at a price.

Q. But not the price you were willing to offer?

A. Not the price we were willing to offer.

Q. Did you tell them what price you were willing to pay?

A. Oh, yes; we offered them a number of prices.

Q. Take this particular transaction.

A. That is what I mean; we offered them a number of prices.

Q. Whom did you deal with?

A. Mr. Porter.

Q. What are his initials?

A. I think F. K.

Q. For this particular tonnage that you contracted for with the Carnegie?

A. At that time the tonnage we would buy was largely governed by demand, and my negotiation with them was anywhere from 5,000 to 15,000 tons; we always make a spread that way.

Q. Then you proposed to Mr. Porter, did you, to buy anywhere from 5,000 to 15,000 tons, and you named various prices?

A. Various prices.

Q. For that 5,000 to 15,000 tons?

A. Yes.

Q. What deliveries did you specify?

A. The deliveries were optional with them, or whoever took it—we did not need it; we were simply buying it.

Q. How?

A. We did not need any particular delivery. We let the deliveries extend as they saw fit.

Q. So that there was no time within which this purchase was to be delivered?

A. Within six or eight months; long-term delivery.

Q. Then when you proposed to buy 5,000 to 15,000 tons, and named various prices, it was understood that the delivery was to be within six or eight months?

A. About that.

Q. Your contract with the Carnegie, within what time was the delivery to be? Did the contract specify?

A. I think that contract specified six months; I am not positive on that.

Q. You have that contract, have you?

A. Yes.

Q. Will you please bring that?

A. Yes.

Q. You were asked about a custom; you never had any custom, did you, which you thought justified you in violating your written obligations, where the obligation was expressed?

A. I do not know that we could ever be considered as violating it.

Q. I am just asking you, if you had a contract which obligated you to do certain things, and obligated the other party to the contract to do certain things, do you know of any custom which made it honorable for you to violate your obligations, and at the same time consider them to be held to their obligations?

A. No, sir.

Q. You do not know of any such one-sided agreement as that, do you, where one man is bound and the other man is not, do you?

A. I know where those contracts have not been strictly adhered to.

Q. But you know sometimes people break contracts?

A. I do not mean break; I mean mutually.

Q. You mean mutually, but I am not speaking of what may be mutually agreed on. I am asking you if you know of any custom which justifies one side breaking his obligation and the other side being held to the obligation.

A. I know where it has been done in many cases.

Q. Yes, but, then, the contracts were breached, were they not?

A. I do not understand just what you mean.

Q. Do you know of any custom among decent business people, in any kind of business, where it was understood that where a man signs the contract and agrees to do a thing, that it is optional for him not to do it?

A. There has been a similar custom in the steel business, yes.

Q. Just tell me what that custom is. I want to get at it.

A. The custom has been this, that if a man signed for, we will say, 5,000 tons of steel for delivery over a certain period,

and during that period business conditions were such that he did not require that steel, he could not run his plant to that capacity; at the end of the specified period the contract is frequently considered as expiring by limitation, although a specified tonnage was originally named in it.

Q. You say at the end of a specific period. What do you mean by that?

A. For instance, if we make a contract for, say, 5,000 tons of steel, to be delivered between January and July of a certain year, and the buyer takes out only 3,000 tons—the first of December comes around, and only 3,000 tons have been taken out—it has been frequently, and right along, considered that that contract was done, although he had only taken 3,000 tons of the 5,000 tons that he had specified, up to the end of the six months. The contract was considered complete.

Q. Do you say that there is any such custom as that obtaining in the trade?

A. Yes, sir; that has been a general custom.

Q. A general custom?

A. Quite a general custom, in my experience, yes, sir.

Q. In your experience?

A. Yes, sir. That is all I can speak from.

Q. You are only speaking, then, of your personal experience? Is that it?

A. My personal experience, and, you would probably call it, hearsay in the trade; the general understanding in the trade.

Q. What I want to get at, Mr. Inman, and what I want to understand about, is this: Do you mean to say that, among the iron people——

A. Among the steel people——

Q. (Continuing): ——when a man makes a contract, and if that contract obligates him to do particular things within a particular time, that when he signs that contract it is understood that it is no obligation?

A. That has been my understanding, to the best of my knowledge.

Q. What is the use of a written agreement, then?

A. I cannot tell you that.

Q. What kind of contracts does that apply to?

A. To bar contracts.

Q. It applies to bar contracts?

A. Mainly, I should say.

Q. Did you not say that you had a bar contract that you gave a year's notice to terminate—a sliding scale contract?

A. No, sir; that was a contract for billets.

Q. Billets?

A. Yes.

Q. It applies, then, to bar contracts, but not to billet contracts?

A. I have never known it to apply to billet contracts.

Q. So, then, as to bar contracts, do you say that it is the general custom among steel men when they make a contract obligating themselves to do particular things, the understanding is that it is optional with them as to whether they do them or not?

A. I could not answer as to that, Judge. I have answered a specific case, and that is my understanding, and has been, for years, in the business.

Q. You answered as to a specific case based upon your practice; is that it?

A. Upon practice? I would not say that that is our practice.

Q. That is your practice, you say?

A. No; I would not say it is our practice.

Q. You would not say it is your practice?

A. No.

Q. What is your practice? Is it your practice to live up to your contracts or not to live up to them?

A. To live up to them.

Q. Where you enter into a contract obligating yourself to do particular things, and contract with regard to bars, do you mean to say that there is any general custom by which you understand that that contract is not binding on you?

MR. REED: Just a moment, Judge. I think you have misunderstood him. He did not say——

MR. DICKINSON: I want to try to understand him now——

Mr. Reed: Please let me finish, Judge, and if you disapprove of what I have said you can object to it.

He has testified that contracts of this kind were not considered, customarily, to be binding on the purchaser. He has not testified that his company or any other sellers of steel material were not bound.

By Mr. Dickinson:

Q. Your company is the purchaser under this kind of purchases, is it not?

A. It is.

Q. All right, then. My question is: When your company enters into a contract to purchase steel bars, and in that contract obligates itself to do particular things towards the vendor, do you understand that you are not bound by that obligation, and it is your option not to be bound by it?

A. I do not.

Q. Mr. Inman, when people make contracts in your business for steel bars, in writing, and obligate themselves to do particular things under that contract, do you mean to say that there is any custom by which the obligation is not regarded as binding on the part of the purchaser?

A. I think that the obligation—in fact I know that the obligation is considered as binding, but the custom is a mutual adjustment in the case of a failure to adhere strictly to the contract.

Q. Then, if the parties mutually adjust it, that ends it?

A. Yes.

Q. But if they do not mutually adjust it, you do not mean to say that that does away with the obligation, do you?

A. Most assuredly not.

Q. And you never have meant to testify to that as a custom, have you?

A. No, sir; because I have never known it to be other than adjusted in that way.

Q. Mutually adjusted?

A. Yes.

Q. That is by consent of the parties, is it not?

A. Yes.

MR. DICKINSON: That is all.

By MR. REED:

Q. Have you known of many such requests by the customer for cancellation of contracts of purchase?

MR. DICKINSON: I object to that as referring to special incidents and not proof of any general, universal custom.

THE WITNESS: Frequently.

By MR. REED:

Q. Have you ever, in your experience, known of a case where the seller of the steel materials brought suit against the purchaser because of a refusal to take the material?

A. No, sir.

Q. Is it or is it not customary for the steel manufacturers to treat the contract as cancelled on the customer's request?

A. It is.

Q. Regardless of any legal obligations that the purchaser may have incurred by signing the contract?

A. So far as my experience is concerned, I have always appreciated that I was legally obligated.

Q. Yes; there is no doubt about that; but I am asking you as to whether it has been the custom to treat the contract as abrogated on the customer's request?

A. I think it has.

Q. Has that been true of all the manufacturers of steel, so far as you know?

A. So far as I know, yes.

Q. Has it been true in your own company, so far as you know, in the contracts which you have made for the sale of springs?

MR. DICKINSON: I object to that.

By MR. REED:

Q. Or are you not sufficiently familiar with the selling——

A. I am not familiar with that. I could not tell you that. I do not know anything about that.

MR. REED: That is all.

By Mr. Dickinson:

Q. Mr. Inman, how many times in the last five years have you declined to take what you may have been obligated to take under contracts of purchase of steel bars, and from whom did you decline to take such purchases?

A. In my experience we have never declined to take any such purchase.

Q. So, so far as your practice is concerned, you have lived up to your obligations, have you?

A. I always have.

Q. Do you undertake to speak for all the other people that deal with manufacturers who sell steel bars and steel products?

A. I do not.

Q. As to what their custom is and as regards settling those contracts?

A. I do not.

Q. That depends upon individual cases, does it not?

A. I have always thought so. I should judge always so.

Q. Within your knowledge within the last five years, how many cases do you know of personally where upon purchases of steel spring bars, the purchaser did not take the full requirements under the contract? Also state who the purchaser was, if you know, and from whom he purchased, and when it was.

A. I could not tell you specific cases, but we have had several instances where we have not taken the full tonnage that we have contracted for.

Q. I believe that you said you could not mention any within the last five years, didn't you?

A. No, sir.

Q. I thought I asked you about that.

A. I don't think so.

Q. Now I will ask you about it.

A. You asked me whether we had refused, and I said we had not.

Q. What case have you in mind now?

A. It frequently happens that business conditions are such as would lead us to expect a certain tonnage; we contract

for such certain tonnage to be taken out within a specified time. At the end of that time, if we have not specified for all the tonnage, it is our practice to go to the concern who has that contract with us and say: "Here, we have not lived up to this contract in the matter of specifications, not through any fault of ours; what do you want to do about it? Shall we consider it cancelled as of date, or how shall we adjust it?" and the usual method is: "Well, we will consider it cancelled as of date and we will start in and make a new contract."

Q. When did you last do that and with what company and what purchase?

A. I could not give you a specific case. I think something about two years ago.

Q. About two years ago?

A. Two or three years ago.

Q. With whom was your contract?

A. I think within that period we have made such an adjustment with the Carnegie Steel Company.

Q. You have got that contract, have you?

A. I think so.

Q. And that would show the adjustment, would it?

A. No.

Q. You have a memorandum that would show it?

A. I think so. Sometimes those things are done verbally and just allowed to die.

Q. Can you mention any other within the last three years except that instance?

A. I think we have made the same adjustment with the Inland Steel Company.

Q. Within what period?

A. Within three or four years.

Q. Is that as near as you can come to it?

A. That is about as near as I can come to it.

Q. How many other instances can you give within three or four years?

A. I cannot say as to that because we have been sailing a little closer to the wind in our contracts in the last three or four years than we have at other times, probably.

Q. So in the last three or four years you can only give those two instances?

A. Yes, sir.

Q. So that you went to them and recognized your obligations under the contract?

A. Yes, sir.

Q. And left it to them to say what to do about it?

A. Yes; that has always been our method.

Q. And in these particular instances were the contracts cancelled or was the delivery extended?

A. The contracts were cancelled and new contracts made shortly thereafter, following right on. I can name one other instance: The La Belle Iron Works.

Q. Was that contemporary, the cancelling and making of new contracts? Was it part of the same transaction?

A. Not the same transaction, but following very closely on it.

Q. But you always made a new contract with the same party?

A. Always.

Q. So there was a new contract when the old one was cancelled?

A. In such cases.

Q. Now, you have gone back three or four years. Can you mention any other instances that you recall specifically?

A. I recall one instance within the last year; the La Belle Iron Works.

Q. What was that?

A. That was made about a year ago for 1,000 tons of steel skelp; that is dead soft steel.

Q. I have been asking you about the contracts for spring steel bars and billets, such as you have been describing generally in your testimony.

A. That would be about the same class as some of the soft billets, except it is a little different shape.

Q. What did that contract cover?

A. It covered 1,000 tons to be taken out, I think, by the 1st of June.

Q. How much did you take out by the 1st of June?

A. About five or six hundred tons.

Q. And then you went to the La Belle people?

A. Yes.

Q. Recognizing your obligation under the contract?

A. Yes.

Q. And leaving it optional with them as to what they would do about it?

A. Yes, sir.

Q. And you made an adjustment?

A. We still take the steel.

Q. How?

A. They extended the contract.

Q. What others can you name within the last four or five years?

A. I could not name specifically any, but it is a general thing with us to have either a little over or a little short of our contract at the end of each year.

Q. I am only speaking of those where you are short.

A. Very frequently we are short.

Q. But can you give any other specific instance?

A. I cannot give any specific instance.

Q. Can you give any instance where you went to the other side and said, "I am not bound under this obligation, and I want to say I will not take it"?

A. No, sir.

Q. You never assumed any such attitude as that?

A. Not a bit of it.

Q. You have spoken of your own experience. What other cases—do you know of your own knowledge of others who did not take out within the time specified what they may have been obligated to take out in contracts for steel bars and billets, such as you use? If so, state who the parties were and when the occasion arose, and what the adjustment was, if you know yourself about it.

A. If it did not come right to me, I naturally would not know about it, but I have heard of hundreds of them; talked them over.

Q. You have heard rumors of them, have you?

A. Not rumors; positive statements.

Q. You were not present when the adjustment was made?

A. No, sir.

Q. Never saw the contracts?

A. No, sir.

Q. And had nothing to do with the transaction?

A. Had nothing to do with it; no, sir.

By Mr. Reed:

Q. You have talked with the people who made the cancellations?

A. Oh, yes. The people who have made them and the people who have accepted them.

Q. Isn't it common knowledge in the steel business, Mr. Inman, that the orders on a steel company's books represented by signed unconditional contracts melt away like snow when business gets bad?

Mr. Dickinson: Objected to because the witness has not shown that he knows from books, or has seen them, or has seen the details of orders falling off, or has any intimate acquaintance with the business of these several concerns.

The Witness: Yes.

By Mr. Dickinson:

Q. What familiarity have you with the books of any manufacturer of such steel bars and billets as you have described?

Mr. Reed: That is objected to as not cross examination. My question asked him for the common knowledge in the trade, not his knowledge of any books.

Mr. Dickinson: Your question was predicated upon what the books showed about unconditional contracts. I wanted to know what he knows about it.

By Mr. Dickinson:

Q. Now, Mr. Inman, just tell us.

A. Nothing at all.

Q. You do not know what percentage of the unconditional contracts of any of these manufacturers have fallen off at any particular period of time?

A. I do not; no, sir.

MR. DICKINSON: That is all.

MR. REED: That is all, thank you, Mr. Inman. You will be back at two o'clock with the contracts the Judge asked you for?

THE WITNESS: Yes, sir.

JOHN M. JAMISON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Greensburg, Pennsylvania.

Q. That is about 40 miles east of Pittsburgh?

A. About thirty miles east of Pittsburgh.

Q. What is your occupation?

A. I am in the coal mining business.

Q. I suppose you have several companies, have you not?

A. No, just one company; we have a good many properties, but just one corporation.

Q. What is the name of the corporation?

A. The Jamison Coal & Coke Company.

Q. Are you president of the Jamison Coal & Coke Company?

A. I am.

Q. How long have you been president?

A. Ten years.

Q. So that we may have some idea of the size of your operations, will you tell us the tonnage of your average annual output?

MR. COLTON: In what?

MR. REED: In coal.

THE WITNESS: Our average annual output in Pennsylvania for a period of four to five years past has been, I should say,

about 2,500,000 tons. We have mines in West Virginia. This calendar year we will probably produce 1,400,000 tons.

By Mr. Reed:

Q. So that in West Virginia and Pennsylvania together your output at the present time is about 4,000,000 tons a year?

A. It has been during the past years. At the present time it is running stronger than that, but that would be a fair statement.

Q. How many different mines do you operate?

A. We have five in Pennsylvania and three in West Virginia.

Q. And I suppose you have a number of other mining properties that you are not now operating?

A. We have undeveloped coal, yes.

Q. You use light rails in your mines, I suppose?

A. Yes.

Q. What size rails do you use, what weight per yard?

A. The smallest is 20 pounds to the yard, and the largest or heaviest is, I think, 40.

Q. Do you buy any considerable quantity of light rails?

A. Our present requirements in Pennsylvania are about 100 tons a month, or 1,200 tons a year.

Q. And in West Virginia about how much?

A. In West Virginia I suppose about half that, 500 to 600 tons.

Q. So that your purchases are in the neighborhood of 1,800 tons a year in both states?

A. Yes, at this time.

Q. And they are all assorted sizes between 20 and 40 pounds, are they?

A. Mostly twenties and forties and a few thirties.

Q. How do you buy, on a competitive basis?

A. Yes, as a rule.

Q. What companies do you receive quotations from?

A. In Pennsylvania we get quotations from the Carnegie Company, Jones & Laughlin, Cambria Steel, Pennsylvania Steel and Bethlehem. In West Virginia we get quotations

from a rail concern located at Cumberland, Maryland, called the United States Rail Company, in addition to those I have already mentioned.

Q. Those Pennsylvania manufacturers whom you have named also compete for your West Virginia business, do they?

A. They can.

Q. Well, do they?

A. We usually ask them for quotations, but the freight rate is against them there, and we have been buying our rails mostly from this Cumberland rail maker, the United States Rail Company.

Q. The Cumberland Company, that is, the United States Rail Company, has been getting most of your West Virginia business?

A. Yes.

Q. How do the quotations that you receive on light rails range, Mr. Jamison? Do they vary or are they uniform?

A. Well, I can only speak from general recollection. I should say that under normal conditions there is a range of all the way up to a dollar a ton. That is, when business is normal. There are times when we cannot get quotations from many of those rail companies.

Q. What kind of times would those be?

A. They would be times such as we had in the early part of 1913.

Q. Would those be times of great prosperity in the steel business?

A. Yes.

Q. And the mills filled up?

A. At least three of the companies I have mentioned declined to quote us in the first half of 1913 on account of, as they said, their sewed-up condition.

Q. Who were those three?

A. Jones & Laughlin, the Pennsylvania Steel Company and the Bethlehem.

Q. Cambria and Carnegie were still quoting, were they?

A. Well, I don't remember particularly about Cambria.

Carnegie did quote us and got our contract for the first half of 1913.

Q. How about this United States Rail Company; do they quote you right along, good times and bad?

A. Yes.

Q. How long have the conditions been as you have just described them, for how many years back?

MR. COLTON: Just a moment; I object on the ground that the witness has already stated that he has only a very general and vague recollection in regard to this.

By MR. REED:

Q. (Continuing) Has that been so since 1901?

A. Yes.

Q. Will you state whether or not you believe that you get the benefit of a real and genuine competition in your purchases of light rails?

MR. COLTON: Just a moment; I object on the ground that it calls for a conclusion upon a state of facts not disclosed to the Court, which may be in the witness's mind.

THE WITNESS: So far as I know, we do.

By MR. REED:

Q. So far as you are able to say?

A. Yes; so far as the tenders disclosed information. That is the only thing I have to guide me in reaching that conclusion.

Q. Of course you do not know what goes on when you are not present?

A. No.

CROSS EXAMINATION

By MR. COLTON:

Q. Mr. Jamison, you purchased of the light rails about 80 to 90 per cent. of your requirements from the Carnegie Company, did you not?

A. Over what period?

Q. From 1901 down to the present time.

A. That would be my judgment, yes.

Q. And that would be your best recollection?

A. That would be my best recollection.

Q. When did you first go into the business that caused you to buy light rails?

A. I do not quite understand that question.

Q. When did you first begin to buy light rails?

A. From the organization of our corporation, which was in 1892.

Q. From that time on the Carnegie Steel Company has been a manufacturer of light rails, has it not?

A. I think it has.

Q. As regards the extent of the variation in price from 1901 to 1908, as between the different manufacturers of light rails, you have no definite recollection, have you?

A. No, I have not.

Q. You could not give us any idea at all as to what was the extent of the variations, from memory, now?

A. No.

Q. For that period?

A. No, I could not. I just know in a general way that we asked for tenders, and always gave our contract to the best bidder—mostly it was to the Carnegie Steel Company.

Q. Your prices are f. o. b. your works? Those are the prices that you have in mind?

A. Yes.

Q. Then the prices f. o. b. mill Pittsburgh during that period are not the prices of which you are speaking?

A. No; we usually ask for prices delivered at the mines.

Q. You do not know the railroad rates that those different companies got during that period, do you?

A. We could get them if we had any occasion to, I suppose.

Q. But you do not recollect them?

A. No; we never had anything to do with them.

Q. And you do not know what agreements they may have had with the railroad companies in regard to rates?

A. No.

MR. COLTON: That is all.

MR. REED: That is all.

SAMUEL G. COOPER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Cooper?

A. My office address, I suppose you want?

Q. Yes.

A. Pittsburgh.

Q. What is your business?

A. President of Banning, Cooper & Company, Limited, dealers in iron and steel.

Q. You are dealers or jobbers in iron and steel products, are you?

A. Yes; semi-finished steel.

Q. Principally semi-finished steel?

A. Entirely.

Q. How long have you been the president of Banning, Cooper & Company, Limited?

A. I do not remember that exactly. We started in 1899, and for a time Mr. Banning was president, and I was treasurer of the company. That was for three or four years, I think, and after that I was president.

Q. You have been familiar with its business continually from 1899, have you?

A. Yes, sir.

Q. What kinds of semi-finished products do you deal in?

A. Billets and slabs, sheet bars, Bessemer iron, basic iron, principally; malleable iron sometimes, some little foundry, and coke.

Q. I do not want to be inquisitive about the size of your business, Mr. Cooper, but is there some way in which you can give us a general idea of the volume of the business of your company, either in dollars or in tons, or in any way that you are willing to give it?

Mr. Dickinson: You mean in these particular things, Mr. Reed?

MR. REED: I mean his business in these products that he has mentioned.

MR. DICKINSON: Yes, because otherwise he might give a volume that would not have any relation to some of these things, possibly.

THE WITNESS: Well, I do not care about telling too much about my business.

By MR. REED:

Q. No, and I do not want to ask you too much about it.

A. I suppose you want to get an idea. Supposing that I say that our business amounts to at least a million dollars a year. Is that sufficient?

Q. That is some idea of its size.

MR. DICKINSON: You mean in these products?

THE WITNESS: Yes, in these products.

By MR. REED:

Q. Would it be correct also to say that it amounts to several million dollars a year?

A. It would vary, of course, with the times and conditions. Yes; that would be fair to say. I would not care about saying any more about it than I have to.

Q. That is enough for my purposes.

I want to confine your attention now, Mr. Cooper, to semi-finished steel products, and to ask you for the present to ignore pig iron of the different grades altogether. Just confine your attention to steel.

A. Yes.

Q. From what companies do you buy semi-finished steel?

A. To-day?

Q. Give us those from whom you have bought, say, in the last ten years.

A. The Ashland Steel Company——

Q. You understand I am not asking for a complete list, but just those that come to your mind at the moment.

A. Yes. The Portsmouth Steel; the Republic Iron & Steel Company; the Carnegie Steel Company; the Youngstown Sheet & Tube Company—do you want some more of them?

Q. If you happen to think of them.

A. The Allegheny Steel; the West Penn Steel Company.

Q. Are there any more that you think of at the moment? Do you buy from the Cambria?

A. Yes.

Q. Do you buy from La Belle?

A. From La Belle.

Q. From Jones & Laughlin?

A. Yes.

Q. From the Lackawanna?

A. Yes.

Q. From the Pittsburgh Steel?

A. I do not remember whether we bought any steel from them or not. I know we have done business with them.

Q. From Follansbee Brothers?

A. Yes.

Q. And possibly some others, I suppose?

A. Yes.

Q. All of these companies that you have named have sold you at one time or another billets, sheet bars or slabs, if I understand your testimony correctly?

A. Yes.

Q. Do you keep in close touch with the market for these products, Mr. Cooper?

A. I try to do so.

Q. Is that your daily business to do so?

A. Yes, sir.

Q. Are you familiar with prices that are made from day to day by the different makers of these products?

A. No, I would not say that we were from the different makers.

Q. Just what familiarity with the market have you?

A. We are buying and selling practically every day some kind of material in these lines, and we try to keep track of the general conditions and the general market conditions. We do not shop, however, for prices. We think we know where we are most apt to get the price and we go there first, and if we get it that is all that is said about it.

Q. Do you buy on a competitive basis?

A. Surely. It is competitive in a way. We know what the market is.

Q. You are not tied up to any particular producer?

A. No, not tied up to anybody. We buy outright and buy wherever we can buy the cheapest.

Q. Is there a variation between the price as quoted at any particular time by the different manufacturers?

A. Yes.

Q. How long has that been so?

A. It has always been so.

Q. In these products, Mr. Cooper, is there competition?

A. Yes.

Q. How long has that been so?

A. Always, as far as I know.

Q. Of course I am not asking you before 1899, when you first started in Banning, Cooper & Company.

A. I understand.

Q. Does that competition extend to shading of prices, cutting of prices at times?

A. Well, I would not say cutting prices; it extends to simply the question of whether there is any demand for material or not, and how well they are sold up; whenever they are all sold up it is not a question of price; it is a question of knowing where to get it.

Q. The competition is among the buyers at times like that, is it?

A. Yes, sir.

Q. At other times what is the condition?

A. It just depends on which mill needs the specification worst; which one is hardest up for the tonnage.

Q. What happens when that occurs?

A. You can usually buy at your own price if you come anywhere within reason.

Q. Do you read the Iron Age?

A. Yes, sir.

Q. Do you read its quotations on billets, slabs and sheet bars?

A. Yes, sir; off and on.

Q. Are you guided by its quotations?

A. No, sir.

Q. Why not?

A. Because I find that often they are incorrect. I do not think they have any way of knowing what the prices are. They do not buy anything and they do not sell anything.

Q. How do you find the prices that you pay compare with the prices quoted by the Iron Age in these periods when the mills need work and are not filled up with orders?

A. Sometimes their quotations are practically correct or are correct, while at other times they vary all the way from 25 cents to $2 a ton. I have seen them vary even $3 a ton.

Q. From the prices that you were paying at the time?

A. Yes, and from the prices we were selling at.

Q. In times when the mills need business are you usually able to beat the quotations that are mentioned in the Iron Age?

A. Yes, sir.

Q. How do prices at which you yourselves sell these products compare with the Iron Age quotations in such times of depression?

A. Usually they are lower.

Q. That has been so since 1899?

A. Yes, sir.

Q. Mr. Cooper, in the testimony of Mr. Mudge, a witness for the Government, who testified in Volume VI, page 2398, I find the following——

MR. DICKINSON: I object to the witness being told what the testimony of any other witness is in the case as improper examination.

By MR. REED:

Q. (Continuing): "We bought some bars from Banning, Cooper & Company. But whether that was before the American Sheet Steel Company was formed or right afterwards, I could not answer.

"Q. Was there any special regulation in connection with the purchase of those sheet bars or tin plate bars at that time, and, if so, what was it?"

Then there follow some objections, and the witness answered:

"THE WITNESS: I think we had to specify where the bars were to go.

"Q. What do you mean by that?

"A. We had to say whom they were for.

"Q. Was it generally understood what was the reason for that regulation at that time?

"A. If I remember correctly they did not want bars to go to anyone making tin plate."

Have you any recollection of any such regulation as is described there?

A. No, sir; I have no recollection of that particular case, of course, but I know that we never had any such regulation with anyone.

Q. Did you ever ask your customers where the bars you were selling them were to go?

A. Yes, sir. If the people who would ask for a price were not the consumers of the bars, very often we would ask them where the bars were going, or what they were going to do with them.

Q. What reason would there be for that, Mr. Cooper?

MR. DICKINSON: I object to his reason as being incompetent and irrelevant.

THE WITNESS: There are some makes of steel that some consumers won't use, claiming it is not fit for their product, and that is why we want to know where he is going to ship them, instead of selling them to somebody and then finding out the bars would not answer. Furthermore, in cases like that he might have wanted the bars for someone that we were figuring with direct; in that case we would not quote him if we were quoting direct.

By MR. REED:

Q. You would not want to compete with your own bars?

A. That is it, competing with ourselves.

Q. Was there at any time any objection on your part to selling tin bars to tin plate manufacturers?

A. No, sir.

MR. REED: Cross examine.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You were at one time connected with the Illinois Steel Company?

A. Yes, sir.

Q. In what capacity?

A. I was assistant manager of the freight department.

Q. How long were you with them?

A. For about twenty years.

Q. When did you leave the Illinois Steel Company?

A. No, not twenty years, that is wrong; about 11 years. I left them in 1891.

Q. Were you with the North Chicago Rolling Mill?

A. Yes. I have got to change that again. I mean the North Chicago Rolling Mill of the Illinois Company. I went to work for the North Chicago Rolling Mill in 1880, and in 1889 the Illinois Steel Company was formed. I was with them until 1891.

Q. Well, now, did the Illinois Steel Company take over the North Chicago Rolling Mill?

A. Yes.

Q. What was the North Chicago Rolling Mill making?

A. Why, principally rails.

Q. Standard rails?

A. Iron rails and steel rails.

Q. Standard rails?

A. Yes.

Q. What other concerns making rails in that territory did the Illinois Company take over?

Mr. Reed: This is objected to as not cross examination.

By Mr. Dickinson:

Q. Answer the question.

A. The Union Steel Company and the Joliet Steel Company.

Q. Were both of them making rails?

A. Yes, I think so.

Q. Was that the principal product of each one of them?

MR. REED: Won't you ask him when that happened?

MR. DICKINSON: Yes, I will.

THE WITNESS: I think so, but I was not familiar with all their products at that time.

By MR. DICKINSON:

Q. When were those three concerns taken over by the Illinois Steel Company?

A. I think it was in 1889.

MR. REED: I object to this evidence as incompetent.

By MR. DICKINSON:

Q. Were there any other concerns making standard rails to any considerable extent in this territory at the time those three were taken over by the Illinois, and if so, what?

A. I think there were none.

Q. Those companies, when taken over by the Illinois Steel Company, were selling standard rails, were they?

A. I think so.

Q. Where were they located, all of them; in what State?

A. They were located in Illinois and Wisconsin.

Q. Were they selling their rails generally in the States adjacent to those two States?

MR. REED: This is objected to, first, as not cross examination; second, as not being within the allegations of the petition in this cause, and third, as irrelevant and generally incompetent because dealing with transactions prior to the passage of the Sherman Anti-Trust Law.

THE WITNESS: I do not know where they were selling.

By MR. DICKINSON:

Q. Were they not selling them in interstate commerce?

A. I don't know.

Q. Don't you know where the concerns you were dealing with were selling?

A. No.

Q. What position did you hold with that company when it was taken over by the Illinois Steel Company?

A. I think at that time I was car accountant for them.

Q. And you do not know where their shipments went, you being the car accountant?

A. I had nothing to do with the shipments, except coke shipments, where our cars ran from the Connellsville district to Chicago.

Q. And you had nothing to do with the shipments in the cars that took them out?

A. No, sir.

Q. Was there any other manufacturer of standard rails, except those named, situated between the Colorado Fuel & Iron Company and the Lorain?

MR. REED: Objected to as incompetent and irrelevant and not cross examination.

THE WITNESS: I do not know.

By MR. DICKINSON:

Q. You were generally familiar with that territory, were you not?

A. Not necessarily, Judge, 'way back there. I was not nearly as old then as I am now; that is a good many years ago.

Q. After the Illinois was formed, was there any other concern making standard rails in the territory embraced by the Lorain Company in the East and the Colorado Fuel & Iron Company in the West, except those that were operating under the Illinois?

A. I do not know of any; I do not think the Lorain Steel Company was in existence then.

Q. Do you know of any others within the States of Wisconsin, Illinois and Ohio that were making standard rails, other than the Lorain?

MR. REED: I object to that as not cross examination.

THE WITNESS: I don't know, but I think there was a mill in Indiana.

By MR. DICKINSON:

Q. What was it?

A. I do not know; I am not sure about it. It may have been the Premier Steel Company.

Q. I am speaking about a mill making standard rails.

A. I do not know whether they made rails or not.

Q. You say that you do not recollect this transaction referred to in Mr. Mudge's testimony?

A. No, sir.

Q. You have no recollection about it one way or the other?

A. No.

Q. Do you know when the American Sheet Steel Company was formed?

A. Yes, about.

Q. What year was it?

A. 1898 or 1899, I think.

Q. What position did you hold with Banning, Cooper & Company?

A. Well, October 16, 1899, I was treasurer of Banning, Cooper & Company.

Q. Before that and during 1898 what were you?

A. I was with Naylor & Company.

Q. Don't you know that the American Sheet Steel Company was organized in 1900?

A. I don't remember.

Q. You do not remember?

A. No, I do not.

Q. In 1900 what position did you hold with Banning, Cooper & Company?

A. Treasurer.

Q. Who was the general manager of that company?

A. It did not have any.

Q. Who was president?

A. Mr. C. F. Banning.

Q. Who was vice-president?

A. It did not have any.

Q. Then Mr. Banning was president of the company?

A. Yes.

Q. You say that you yourself have no personal knowledge of this transaction; is that correct?

A. That is right.

MR. REED: You mean the conversation with Mr. Mudge?

MR. DICKINSON: I am speaking of the Mudge transaction, yes, and of the purchase.

By MR. DICKINSON:

Q. What association did you have with the Moores—William H. Moore?

A. Why, really nothing with Mr. Moore. Mr. Guthrie, C. S. Guthrie, was an old partner of mine and was associated with Mr. Moore when the American Steel Hoop Company was formed, and I helped them a little bit on that consolidation.

Q. Wasn't your name used in carrying the title to all the properties that went into the American Steel Hoop Company?

A. Yes.

Q. Did you become a stockholder in that company?

A. Yes.

Q. What connection did Mr. Moore have with the company?

A. I don't know.

Q. What connection did he have with the organization of it?

A. I suppose you would call him one of the promoters of it.

Q. I understand you to say that you did not shop for prices. What do you mean by that?

A. We did not send out a general inquiry around to everybody if we wanted a few thousand pounds of steel.

Q. You say you bought and sold every day?

A. Practically so; we were trading all the time.

Q. So sometimes you bought in larger and sometimes in smaller quantities?

A. Yes, sir.

Q. Sometimes it was quick action, was it not? That is to say, you at times needed supplies, and bought them promptly?

A. Yes.

Q. Explain a little more fully about "shopping." You said you did not send around inquiries. What did you do?

A. If I wanted to buy any steel, I would call up a certain

concern where I thought I would be most apt to get it, and who I thought needed the business worse than the others. Then, if I could buy at a satisfactory price, I would close the transaction, and nobody would ever hear anything about it.

Q. You very often did that?

A. Yes.

Q. Can you not give any idea of the percentage of your business that has been done in that way, offhand, during these years?

A. Yes. I would say 90 to 95 per cent.

Q. 90 to 95 per cent. was done in that way?

A. Yes.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Banning has retired from active business, has he not?

A. Yes.

Q. Where does he live?

A. He is abroad most of the time. He comes over here once every year, or once every two years, and he usually goes fishing.

Q. Where is he now?

A. He is over in Berlin now.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

The witness Inman produced the following contracts which are offered in evidence by the complainant:

Contract dated April 22, 1901, between the National Steel Company of New Jersey and the Detroit Steel & Spring Company of Detroit, Michigan, together with the letter of September 24th, 1901, attached to the same.

(The contract referred to was marked "Government Exhibit (Inman), No. 469, November 14th, 1913," and will be found in the volume of exhibits.)

Contract of July 28, 1904, between the Carnegie Steel Company and the Railway Steel-Spring Company.

(The contract referred to was thereupon marked "Government Exhibit (Inman), No. 470, November 14th, 1913," and will be found in the volume of exhibits.)

Contract dated July 13th, 1905, between the Carnegie Steel Company and the Railway Steel-Spring Company, together with the letter of December 17th, 1906, attached to said contract.

(The contract referred to was thereupon marked "Government Exhibit (Inman), No. 471, November 14th, 1913," and will be found in the volume of exhibits.)

MR. REED: It is understood and agreed that when these exhibits have been copied and compared the originals may be returned to said witness, and that the copies shall be taken to have the same effect as if they were the originals.

MR. DICKINSON: Yes.

(Whereupon an adjournment was taken until Monday, November 17th, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWELFTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Monday, November 17, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY and MR. SEVERANCE.

CHARLES F. TUTTLE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Tuttle, what is your business?

A. The Tuttle & Bailey Manufacturing Company, of Brooklyn.

Q. What do the Tuttle & Bailey Manufacturing Company make?

A. They make warm air registers, ventilators, grilles.

Q. What position in the corporation of Tuttle & Bailey Manufacturing Company do you occupy?

A. Factory manager.

Q. What, if anything, have you had to do with the purchase of materials by that corporation?

A. I do it. I am the buyer.

Q. How long have you been the buyer?

A. Since 1907.

Q. Since what time in the year 1907?

A. I think about the summer.

Q. Continually up to this time?

A. Yes.

Q. What, if any, classes of steel products do you purchase for the consumption of the corporation you represent?

A. We buy tool steel, die steel, wire, sheets, channels, angles, hoops and bands.

Q. About what is your annual consumption of hoops, bands, angles and channels?

A. Well, roughly speaking, I should say about 1,000 tons a year.

Q. In what manner do you proceed in making your purchases?

MR. DICKINSON: You mean, those particular things?

MR. SEVERANCE: As to those particular things—hoops, bands, angles and channels.

THE WITNESS: We have what we call buying cards, which are lists of the dealers that might be interested in that class of business; and when a requisition comes in, it is put on my assistant's desk and he sends out letters to those persons on that list, or, if the necessities of the occasion are immediate, he calls them up over the telephone. He then makes a list and puts it on my desk, showing the quotations of the various persons of whom he has inquired. I decide who is to have the business, and an order is then made and signed by me.

By MR. SEVERANCE:

Q. Has that been your practice since you have been the head of the purchasing department of that concern?

A. Since shortly thereafter, yes. I installed the method.

MR. DICKINSON: Would you mind asking him when he installed it?

MR. SEVERANCE: He said shortly after he became the head of the purchasing department.

MR. DICKINSON: I did not know but what he could give the time.

By MR. SEVERANCE:

Q. Can you give the time any more definitely, Mr. Tuttle?

A. Not exactly. It was shortly after I became factory manager, which was in the spring of 1907. I then took that up and we gradually developed it.

Q. Would it probably be during the summer of that same year?

A. Probably during the fall.

Q. What has been your experience during that time as to whether the bids you have received under those circumstances have been uniform from various mills or dealers, or varying?

A. They have not been uniform. On the contrary, they have varied.

Q. Can you tell me what companies or mills you have purchased materials of this class from during that time? I am speaking, now, of hoops, bands, angles and channels.

A. I would rather give you the list that we use for that purpose than to depend upon my recollection.

Q. Have you the original list from your office?

A. Yes (producing list).

MR. SEVERANCE: Have you any objection to the witness refreshing his memory by that, Judge?

MR. DICKINSON: No. Just copy the list in the record, if you wish.

By MR. SEVERANCE:

Q. Just read the list off, Mr. Tuttle.

A. Very well (reading). Eggleston Brothers; Dillworth, Towne & Lockwood, jobbers; Ogden & Wallace——

Q. What are they?

A. I do not know whether they represent a mill or not.

Q. You buy from them?

A. Yes.

Q. What are they—jobbers?

A. I don't know. We have an interrogation mark in place of the mill opposite their name, so I do not know whether they represent a mill or whether they are jobbers. I have no information on that subject. We do buy of them.

Wheelock, Lovejoy & Company, representing the West Leechburg Steel Company, Pennsylvania; Fuller Brothers, representing the Sharon Steel Hoop Company, Sharon, Pennsylvania. The Carnegie Steel Company; also the Carnegie Waverly Works.

Gilbert Metals Selling Company, representing New Milford Strip Steel Company.

Youngstown Iron & Steel Company. That is a mill.

The Pittsburgh Steel Company is a mill.

Q. Now, this sheet that you have been using to refresh your recollection is the sheet that you are now using?

A. Yes.

Q. Are those sheets revised from time to time?

A. Yes, always; they are continually being added to and taken from.

Q. That has been the case since you commenced buying this way in the summer of 1907?

A. Quite right.

Q. You say they are constantly being revised; how far back has that sheet been used?

A. It has been used, I should say, for more than a year. We add right to this present sheet when we find that there is someone in this line that we haven't on the sheet, but we would not destroy this sheet or change its date, but simply add the name; if we find someone has gone out of business or does not give us good service, or who were uniformly high, or for some other reason we were not interested, we would simply draw a line through that party. I have one name here now; he does not handle the class of material that we want and we do not send to him. When this card is worn out it would be destroyed, and a new card would be made from it. It would simply depend on the life of the card, how full it was, and its condition.

Q. You say you have adopted the same practice heretofore that you have in vogue now, at present?

A. Yes.

Q. What is the fact as to whether there have at all times since 1907, when you commenced, been various concerns dealing in this line from whom you solicited quotations?

A. There have been a number of different concerns soliciting bids, with whom we have had verbal talks, by telephone or by letter, or by personal visits. As I said before, there was not a uniformity in those prices.

Q. Now, will you kindly give a list of the different concerns from whom you buy angles and channels?

A. C. Pardee Works; they do not roll angles more than two by two by 3/16 of an inch.

Schrock & Squires, dealers.

J. T. Ryerson & Son.

Q. What are Ryerson & Son?

A. That is a mill. They have a mill of their own, I understand; they so represent; they have a mill of their own. I do not know as to whom they represent.

Eastern Steel Company. The smallest channel they roll is 3 by 4 inch section. The smallest angle is 2 by 2 by 3/16 of an inch.

Phoenix Iron Company; they only roll large sizes.

Bethlehem Steel Company; do not roll angles under 3½ by 3½ inches. Do not roll channels under 6 inches.

Sharon Steel Hoop Company; represented by Fuller Brothers; do not roll angles.

Altoona Iron Company; they roll only bar iron.

Slatington Rolling Mills; they roll angles from 1, 1½, 1¼, 1¾, and 2 inches by ⅛ inch to 5/16 inch.

New Milford Cold Rolled Steel Company; they do not roll angles or channels.

That is the list.

Q. Now, is that list one that has been revised from time to time in the same way as the other one?

A. Yes.

Q. That is your present list, is it?

A. Yes.

Q. How old is that list, if you know?

A. I could not say exactly.

Q. Have you at all times since the summer of 1907 had a number of concerns from whom you have purchased angles and channels?

A. Yes.

Q. Did you mention the Carnegie Steel Company in that list?

A. I did in respect to angles and channels; that should be on this list, but my stenographer knows it so well in connec-

tion with the others. To that list should be added the Carnegie Steel Company.

Q. That is, on the other list; but they also sell you angles and channels?

A. They also sell us angles and channels. Also add to that the Carnegie Waverly Works.

Q. That is the warehouse?

A. Yes.

Q. Have you since the summer of 1907 at all times solicited quotations from several different mills or dealers in this line, the same as in hoops and bands?

A. Whenever we were in the market.

Q. That is what I meant. You have always had several concerns by whom you were solicited for business?

A. Yes.

Q. And have the quotations on angles and channels that you have received from time to time since 1907, commencing in 1907, been varying or uniform?

A. They have been varying.

Q. You buy certain wire goods?

A. Yes, sir.

Q. And what method do you pursue in making your purchases of wire goods?

A. The same as I have mentioned with respect to the other classes of steel or iron.

Q. From what companies did you solicit quotations or what companies are there which quote you prices on wire goods?

A. Our purchasing list now stands thus: "American Steel & Wire Company, cheaper on round wire, basic printing wire; high on flat wire."

Q. You are reading from your memorandum there?

A. The purchasing list. Igoe Brothers; cheaper on flat grille wire, and can deliver in one to four days usually. Spencer Wire Company, Worcester, Mass.; Roebling's Sons Company; Hogan & Sons.

Q. That is your present list, is it?

A. Yes, sir.

Q. Have you at all times since 1907 had a similar list?

A. Yes, sir.

Q. Have you during all that time been quoted by different wire manufacturers?

A. Yes.

Q. Have those quotations been uniform or varying?

A. Varying.

Q. You spoke of purchasing sheets. Have you a list of sheet makers that you buy from?

A. Yes, sir.

Q. Will you give them?

A. McVoy Sheet & Tin Plate Company; American Sheet & Tin Plate Company; Dillworth, Towne & Lockwood, jobbers; Phillips Sheet & Tin Plate Company, the largest sized sheets 32x75 inches; Fuller Brothers, representing the Youngstown Iron & Steel Company; they make blue annealed sheets, blue annealed plates, red steel plates, and black and galvanized sheets; Marcus L. Filley, Niles, Ohio. I do not know whether that is a jobber or a mill owner or representative; C. S. Brushaber, a mill representative; Ogden & Wallace; I do not know whether they are merely jobbers or whether they represent a mill in addition. Wheelock, Lovejoy & Company, representing the West Penn Steel Company. La Belle Iron Works. A. Schroeder, representative, 39 Cortlandt Street. Their works are in Steubenville, Ohio. Chandler & Floyd, representing the Allegheny Steel Company. De Forest Sheet & Tin Plate Company, represented by Marcus L. Filley, sheets 12 gauge to 30 gauge; Meurer Brothers & Company; that is a Brooklyn jobber. Pittsburgh Sheet & Tin Plate Company; that is a mill; Joseph M. Gilbert, representing New Milford Strip Steel Company. West Penn Steel Company; that is a mill. Trumble Steel Company; a mill. J. Wood Brothers Company; a mill. Apollo Steel Company; a mill. American Rolling Company; a mill. I might add that McVoy Sheet & Tin Plate Company is not now on our list.

Q. Why is that?

A. They furnished us some material which was not satisfactory.

Q. I will ask you whether since the summer of 1907 you have kept a list similar to this one.

A. Yes, sir.

Q. And have you at all times since that date solicited or received bids from various different dealers or manufacturers of sheet steel when you had occasion to make purchases?

A. Yes, sir.

Q. Have those bids been uniform or varying?

A. They have been varying.

Q. What is the fact as to whether or not you are called upon by representatives of different steel makers soliciting your business?

A. We are, at all times.

Q. At all times?

A. Yes, sir.

Q. Do they make very frequent visits?

A. When business is poor they are a pest; when business is good we do not see so much of them.

Q. Has there been anything in the nature of the bids received, or otherwise, indicating at any time since you commenced buying in the year 1907, that there was any combination or arrangement between the various producers or sellers of the different classes of steel products you testified about, to bring about a uniformity in price?

MR. DICKINSON: This is objected to as incompetent, because it calls for a conclusion of the witness based upon an unrevealed state of facts, facts which may exist in the mind of the witness and influence his opinion, which are not shown to the court.

THE WITNESS: There was nothing in the bids or offers or the transactions between us and the sellers that indicated any such state of affairs.

By MR. SEVERANCE:

Q. In addition to steel products have you bought any other kind of metal products?

A. Yes; we buy copper, ingot copper, scrap copper, pig iron, scrap iron, tin, pig lead, antimony and possibly a few others.

Q. In what way do you make your purchases of the other kinds of metal products?

A. In the same way as we do in the case of steel.

Q. How are the variations, if any, in prices in these various products as submitted to you by sellers, as compared with the variations in the price of steel products? Are they greater or less?

A. The variations in the prices of steel, as a rule, were greater than the variation in the prices quoted us for the other articles I mentioned.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Mr. Tuttle, you began, you say, in the summer of 1907, with your company?

A. I became factory manager, Judge, in the spring of 1907; I think it was in March, 1907.

Q. And you instituted this method sometime in the summer of 1907?

A. Very shortly thereafter, yes. I cannot remember the exact date.

Q. In making your purchases do you estimate the quantities according to the fiscal year or according to the calendar year, or have you any method at all?

A. Neither.

Q. Take the remaining part of the year 1907, after you changed to that method: What amount of angles and channels did your company buy that year, and what were the sizes?

A. There were very, very few in 1907; so small as to be of no particular moment in 1907.

Q. Then come to 1908; in angles and channels, what tonnage did you buy and what were the sizes?

A. I could not state from recollection.

Q. Could you approximate it?

A. I would be afraid to do so. The situation in that regard is this: That we did not make, prior to 1907, in any considerable quantities, steel registers or steel grilles. We had been doing some experimental work prior to 1907, but

about that time we started in and began to manufacture them.

Q. I am now asking you about 1908, if you can approximate the quantity.

A. I was about to say, then, that that grew and grew quite rapidly. In 1907 it was very small, and in 1908 it was not very large. In 1909, and from that time on, it grew very rapidly.

Q. Then in 1908 your purchases in angles and channels were very inconsiderable?

A. They were comparatively small, I should say.

Q. What, during all of these years, did you purchase of angles and channels?

A. I could not say from recollection, but we purchased up to 6-inch channels. There is a very wide range of sizes.

Q. Were these angles or channels that you speak of?

A. Six-inch channels. I said that was the largest.

Q. That is smaller, is it not, than the channels that, during that period, were used generally in bridge work and structural buildings?

A. We used very little of what we call structural steel; some, of course, but only by way of repairs around our factory.

Q. Then in your manufacturing business you did not use what is known as structural steel, such as is used in the construction of bridges and buildings?

A. No; except, I presume, they do use six-inch channels. I am not familiar with what is used in structural work, but, generally speaking, the steel that we purchased in angles, hoops and bands, is much lighter and smaller than what is generally known as structural iron work.

Q. And of this six-inch size, what proportion is that of your entire use?

A. Quite small.

Q. Is it negligible, almost, as compared with the whole quantity that you used?

A. Generally speaking, yes.

Q. And that is so throughout all this period, is it?

A. Yes, sir.

Q. Take the angles and channels that you purchased for the year 1907: You say that you are not able to state the quantities. Can you state the persons from whom you purchased that year?

A. Not from recollection.

Q. Can you state, from recollection, the prices?

A. No, sir.

Q. Or any variation in prices?

A. No, sir.

Q. How about the years 1908, 1909 and 1910?

MR. SEVERANCE: Just a moment. I wonder if the witness understood exactly your question, Judge.

MR. DICKINSON: I hope he did. I want him to understand it.

MR. SEVERANCE: I know, but did you mean, when you asked him if he recollected any variation in prices, the extent of the variation? Is that what you meant? Or did you mean to ask whether there was any variation? It is rather ambiguous as the question stands.

MR. DICKINSON: I will make it clear.

By MR. DICKINSON:

Q. What recollection have you as to the various prices that were made by the various bidders upon the channels and angles that you bought in 1907?

A. I have no recollection.

Q. You cannot give any of the prices made by any of them?

A. I could not from recollection, no.

Q. How about the years 1908, 1909 and 1910?

A. The same would be true of every year.

Q. Of every year?

A. Yes; they are a matter of record in our office, and I could not tell what they were from recollection.

Q. Have you meant to say that upon certain purchases at certain times none of those prices from more than one bidder have been the same?

A. No, I have not undertaken to say that.

Q. You undertake to say that at times there were variations in prices?

A. I should say variations in prices at all times.

Q. You mean to say that all of them varied, or that some of them varied?

A. Some of them varied.

Q. And that is the extent to which you mean to testify?

A. Yes.

Q. You do not remember, do you, how many of them, upon any particular bids, quoted you the same price?

A. I could not say from recollection.

Q. There were times when they did?

A. Not all the same bidders.

Q. Not all the same bidders, no, but some of the bidders?

A. Some of them quoted the same price.

Q. Your purchases were rather large, were they not?

A. At times large, and at times small.

Q. The larger they were, the better you were able to make a bargain?

A. Yes.

Q. And the very size of your business was material in the question of being able to make a bargain and getting somebody to give you a price that was satisfactory?

A. That was my idea when I went shopping for the goods.

Q. Does that apply to all these various things that you have testified about, in respect to which you testified as to prices varying?

A. Yes.

Q. What kind of wire have you purchased? How do you describe it?

A. Basic wire, crimp wire, even chicken wire, and flat wire. Our purchases of wire are not as large as they are of sheets and strips and bands, because a small quantity of wire will go farther in a grille or open register than strips or bands.

Q. What you have said in regard to bids and variations and your methods of purchase, in regard to these other things, applies also to wire, does it?

A. Exactly.

ALLEN M. FOSTER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live, Mr. Foster?

A. Cleveland, Ohio.

Q. What is your business?

A. Bolt and nut manufacturing company.

Q. Have you a corporation?

A. We have.

Q. What is its name?

A. Foster Bolt and Nut Manufacturing Company.

Q. What is your relation to it?

A. Vice-President and General Manager.

Q. When was that company formed?

A. 1909.

Q. Was it preceded in its business by any other concern?

A. Well, I was connected with the Capital Lock, Nut & Washer Company of Columbus.

Q. Ohio?

A. Ohio.

Q. How long were you connected with that company?

A. About four or five years.

Q. And was that immediately before your association with the Foster Bolt & Nut Manufacturing Company?

A. It was.

Q. Did the Foster Bolt & Nut Manufacturing Company succeed in any way to the business of the Capital Company?

A. Well, I purchased the Capital Lock, Nut and Washer Company; my brother and I; and we formed this company.

Q. And transferred the business to Cleveland?

A. Yes; we brought the machinery to Cleveland.

Q. Took the machinery there?

A. Yes, sir.

Q. And what was your connection with the Capital Company, as I will call it for short?

A. I was merely a director.

Q. In that company?

A. Yes, sir.

Q. And how long had that been in business?

A. Four or five years, I should judge.

Q. And you had been a director all that time?

A. Not all the time, the last two or three years.

Q. Had you any duty, or did you perform any service in connection with that company except such as was incident to your position on the board?

A. Well, principally in furnishing them with money.

Q. I suppose you endeavored to keep yourself informed as to the run of the business, did you not?

A. That was part of my business, to see what they were doing.

Q. Just what was the business of the Capital Company?

A. They made large bolts and nuts.

Q. And rivets?

A. Not many rivets.

Q. Rivets often go with bolts and nuts, I think I learned in Cleveland a week or two ago?

A. Yes, sir.

Q. And what has the Foster Bolt & Nut Company been making?

A. We have been making principally bolts and nuts and small rivets.

Q. Do you in your business—I am speaking now of the Foster Company first—purchase any steel products?

A. We do.

Q. What do you buy; that is, what do you use in your business?

A. We use hot bars and rounds and coiled steel wire and coiled nut wire, and nut wires.

Q. Do you do any jobbing or are you manufacturers wholly?

A. We are manufacturers wholly.

Q. And where do you market your products?

A. We market all over the United States.

Q. Do you do considerable business in the manufacture of bolts and nuts?

A. In our line we do quite a business; we think we do.

Q. What tonnage of steel do you use per annum, about?

A. About 500 tons a month.

Q. Do you use cold rolled products?

A. Our principal products are cold rolled.

MR. DICKINSON: Do you mean products?

THE WITNESS: The principal material.

By MR. LINDABURY:

Q. Those, I suppose, are supplied by the wire companies, are they not?

A. Yes, sir.

Q. Are they the only ones that furnish cold rolled steel?

A. Well, now, the Republic furnishes nut steel which we use largely in connection with that.

Q. In making your purchases do you buy as you have occasion to use, or do you buy on term contracts ordinarily?

A. Sometimes on contract, and sometimes on occasion to use.

Q. We will speak of wire products first; from whom do you obtain quotations on those ordinarily?

A. On the wire?

Q. On the wire products?

A. The American Steel & Wire Company, Cambria Steel Company; I have had some quotations from the Jones & Laughlin Company, but there was a little feeling came up between us, so that I have not bothered much lately with them.

Q. Haven't they bothered you?

A. Not very much; I guess they know the reason.

Q. Are you visited and is your trade solicited by the representatives of these wire concerns?

A. On an average we have five or six a day.

Q. How long has that been the case?

A. The last two or three years.

Q. Did you have to do or were you acquainted with the purchases by the Capital Company?

A. During the latter years I saw all their purchases, and they were brought up in the meetings.

Q. They were generally submitted, were they?

A. Yes, sir.

Q. And did you know also of the purchases?

A. Yes.

Q. They were reported, were they?

A. Yes, sir.

Q. Have you, since the Foster Company was organized, bought on solicitation at times, or only on quotations made in response to inquiries?

A. Only on quotations made from inquiries.

Q. Have those quotations on wire products made to the Foster Company been uniform or variant?

A. They have been variant.

Q. Have they varied at different times, as well as among different manufacturers at the same time?

A. Yes, sir.

Q. And has that variation extended to all the wire products that you have bought?

A. Yes; I should say so.

Q. Is or not that statement true with regard to the experience of the Capital Company when you were conversant with its dealings?

A. I cannot speak so positively with reference to them. I know they only had a few accounts, and they were a little handicapped for money, and they probably did not go out in the market as aggressive like as we would.

Q. I am glad the Foster concern is in better financial shape; that is not hampered by its financial condition in its purchases?

A. Not in the least.

Q. Well, now, what other than wire products do you buy; that is, what do you buy from concerns that manufacture other than these wire products?

MR. DICKINSON: You are speaking now of steel, though?

MR. LINDABURY: Yes, all the time of steel.

THE WITNESS: We buy the hot bars for nut steel and the heavy rounds up to one inch.

By Mr. Lindabury:

Q. Do you get them from the same mills ordinarily; I mean are they produced by the same mills?

A. Some of them are by the same mills as we buy the wire from.

Q. No, not the wire, but these two; what are they again?

A. Hot bars and heavy rounds.

Q. Hot bars and heavy rounds.

A. They are produced by the general steel mills.

Q. Have your purchases of those been considerable?

A. They would run probably about 200 tons a month.

Q. And has that been so all the time the Foster Company has been in business?

A. Yes, sir.

Q. Do you make your purchases of these in the same way that you do of wire, that is, are quotations made at your solicitation?

A. Yes, probably more so because we had a bigger field to investigate.

Q. What field did you investigate?

A. Jones & Laughlin, Carnegie Steel Company, Cambria, Lackawanna and Upson Nut Company, and Bourne-Fuller.

Q. They are very large jobbers in Cleveland, are they not?

A. Yes; they have mills there. They represent two mills there.

Q. I did not know they had any mills.

A. Yes; the Union Rolling Mill and another, the name of which I can not remember at the moment.

Q. The Union Rolling Mill is merely an allied mill, is it not?

A. No; they own the Union Rolling Mills; they own the biggest proportion of the stock in it. They sell the products of that mill.

Q. I diverted you a few moments ago. I do not know whether you had finished your list or not. Did you buy from the Youngstown Sheet & Tube Company?

A. The Republic.

Q. Are these the concerns that you are in the habit of ask-

ing quotations from when you want to buy these hot rolled products?

A. Yes; these are the people.

Q. Have the quotations made to you by those concerns been uniform or have they varied?

A. They have varied.

Q. Have they varied also from time to time?

A. I do not remember any time when there was not a variation.

Q. I do not mean merely a variation as between the mills, but also a variation as between dates?

A. Yes; certainly.

Q. How far back does your memory carry you with regard to the purchases of steel products, taking into account not merely your experiences with the Foster Company, but also with the Capital Company, as well?

A. I do not know as I could give you the exact date.

Q. About how many years?

A. I should say seven years back.

Q. What did the Capital Company buy?

A. Hot bars and rounds.

Q. They did not buy the wire products that you mentioned?

A. No; they bought no wire at all.

Q. So that your testimony as to the experience of the Capital Company is confined to bars and rounds?

A. Yes.

Q. What percentage of your purchases of bars and rounds has been made from the Steel Corporation or its subsidiaries?

A. That is, you mean hot bars and rounds?

Q. Yes; the hot.

A. I suppose it would not be more than 30 or 40 per cent.

Q. And the balance has been distributed how?

A. Through the different companies.

Q. To the different companies you have named?

A. Yes.

Q. On what basis?

A. Probably the Republic has got more than——

Q. (Interposing): By "basis" I meant was it because of price quotations?

A. Because of price quotations; yes, sir.

Q. Did any other circumstance influence you in your purchase or selection of a mill?

A. In some purchases convenience cut quite a figure.

Q. Would they be the larger purchases or the smaller purchases?

A. They would probably be the smaller purchases.

Q. Your greatest purchases were made from the Republic?

A. Yes, sir.

Q. In the wire products, from whom did you make the largest purchases?

A. From the American Steel & Wire Company.

Q. How did it happen that your purchases from the American Steel & Wire Company were larger than those from their competitors?

A. They gave us better service, and they gave us better products.

MR. DICKINSON: Did he say what per cent. he got from them?

THE WITNESS: About 70 per cent.

By MR. LINDABURY:

Q. I do not think I had asked you that. You say about 70 per cent.? That is what I was about to ask you.

A. Yes.

Q. How was the service better?

A. Well, when they made a promise to us, we could depend upon it. In the case of the other people, when they made a promise, we never knew when we were going to get the material.

Q. How was their service with regard to making good deficiencies?

A. Their product seemed to work better. Their wire seemed to work better on the machines.

Q. Did you have any experience with the wire of other producers? I will not ask you the names of them. Did you have any experience with the wire of other producers that differed from your experience with the wire of the American Steel & Wire Company?

A. Yes; we had some very bad stock from some of them.

Q. How did you get through with that?

A. Some of it went to the scrap.

Q. Did the American Steel & Wire Company aid you any with regard to that?

A. We got only one lot from them, and they took it back.

Q. I meant, when you found the production of their competitors bad, did the American Steel & Wire help you out?

MR. DICKINSON: I object to that as irrelevant.

MR. LINDABURY: Never mind, Mr. Foster. You need not answer it. I suppose it is irrelevant.

By MR. LINDABURY:

Q. Mr. Foster, has there been a time since you have been connected with the steel industry as a purchaser, whether your connection was with the Foster Company or the Capital Company, when there was not active competition in all of the products that you were buying?

A. Not that I remember.

Q. Has there been any time during that period when in either wire products or hot rolled products there appeared to be any artificial control of the market by anybody?

MR. DICKINSON: That is objected to as incompetent, as calling for an opinion of the witness upon facts existing in his own mind merely, and not shown.

THE WITNESS: Not from any remembrance of my own.

By MR. LINDABURY:

Q. You saw nothing——

A. I saw nothing in any transactions that I had with people to lead me to believe that there was any arrangement on prices of any kind.

Q. How was this activity of competition in these various lines, to which you have alluded, shown? That is, what form did it take?

A. In soliciting business, do you mean?

Q. You have just said that there was, during this period, activity of competition in all these lines. How did it show itself?

A. When you went to one man for a price, he would give you a price, and the next man would probably give you another price. Probably the next man might have the same price as one of the others. But I have gone into the market for some lots when I have seen variations in three different prices; very considerable, too.

Q. Has that been general?

A. That has been general, yes.

Q. And when you got quotations, did those who made them or offered them show any keenness of desire to sell?

A. They always seemed to want the business bad enough.

Q. Were you ever able to make a better deal than the quoted prices? Could you gain anything through negotiation?

A. I never went into the market yet but I could get a better price than the quoted price.

Q. Has it been your practice to dicker?

A. That is part of the business.

Q. Well, you followed it?

A. I followed it, certainly.

Q. And with success, I take it from what you say?

A. Yes.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Now, you say it has been your habit to dicker; you mean since you controlled the purchases of the Foster Company; isn't that it?

A. Yes.

Q. You had nothing to do with dickering or bargaining about the other company at all?

A. No.

Mr. Lindabury: Before you go further, Judge, did he give the exact date when the Foster Company was organized?

Mr. Dickinson: Yes, 1909.

The Witness: 1909.

By Mr. Dickinson:

Q. Now, your knowledge of prices and markets prior to your connection with the Foster Company was only such as

came before you from time to time when you were present as a director of the company?

A. Yes; the last two years I was with the Capital Lock & Nut Company. They got involved, and I had to furnish the money to buy the stock.

Q. Furnish the money?

A. That made me more interested in knowing what they were paying for it.

Q. Do you undertake to say that you can give the prices they were paying at those times?

A. No, I can not remember.

Q. Or anything about it?

A. No more than we bought it from two or three people.

Q. That is all you can remember about it?

A. That is about all.

Q. You do not remember anything at that time about bargaining and prices and variations?

A. No, I would not want to make a positive statement.

Q. And you have not undertaken to testify on that subject back of your connection with the Foster Company?

A. Not to any extent, no.

Q. Take the Foster Company; you say you have gotten about 70 per cent. of your wire from the American Steel & Wire Company. For how long a period have you been getting about 70 per cent.?

A. Well, I think that would run pretty nearly since we have been in business.

Q. Have you a contract now with the American Steel & Wire Company?

A. Yes. Our contract is about up with them now.

Q. When was that contract made?

A. I think that was made the 1st of July.

Q. Of what year?

A. This year.

Q. What quantity did that call for?

A. Well, I can not just say from memory; it would cover requirements for these six months.

Q. For your requirements for these six months?

A. Yes; but we might specify for 500 tons more than we expect to take out, or 1,000 tons.

Q. In any event, that contract made in July covers all your requirements for this current six months?

A. No, it is not necessary to take it. If I can get a better price from somebody else I can go out in the market and buy it.

Q. As a matter of fact, have you bought from any one else during these current six months?

A. I think we had some come in in July from another company.

Q. Was that from a pre-existing contract made before July?

A. Yes.

Q. Take the first six months of the present calendar year; what contracts did you have, and with what companies?

A. Well, our old contract had not expired.

Q. With what company?

A. With the Cambria. We got some from them and we got the balance from the American Steel & Wire Company.

Q. Now, this first six months of this year; what proportion did you get from the American Steel & Wire Company, of your consumption?

A. Well, it would be about 60 per cent.

Q. And you got the balance from the Cambria?

A. Yes.

Q. Now, when you made this contract for the present six months with the American Steel & Wire Company, did you make it yourself?

A. I did.

Q. Did it cover various sizes of wire?

A. Yes.

Q. How many different sizes?

A. Oh, probably eight or ten.

Q. Did the Cambria make all of those sizes?

A. I do not think they made a few of the very smallest sizes.

Q. Was that an entire contract covering all those sizes? Were the bids for all of those sizes?

A. When we got a contract we always figured to go out in the market and buy stock at any time.

Q. I am not asking what you figured; I am asking you what this contract covered.

A. It covered principally what we would use.

Q. Did it cover eight or ten different kinds of wire?

A. Yes. We did not specify the different sizes of wire; we just specified the amount of tonnage.

Q. But under that you could call for eight or ten various sizes?

A. Yes.

Q. You could not have gotten all those sizes from the Cambria?

A. I do not know that. I do not think they make all the sizes. They have not been in the business very long, and I do not think they are in position to make the sizes.

Q. How long have they been in business?

A. I think only two or three years, in drawn wire.

Q. At the time you made this contract with the American Steel & Wire Company, what bids did you take on that contract?

A. I got prices from the Cambria and the Republic Iron & Steel. Part of that stock comes from the Republic Iron & Steel.

Q. Part of what stock?

A. This wire; they make a drawn nut wire.

Q. I do not exactly understand you.

A. We have a wire drawn square for nuts and small bolts and rounds for bolts.

Q. I was asking you about the contract with the American Steel & Wire Company. Do you mean to say that part of that stock comes from the Republic?

A. Yes; we also get from them this flat wire; that covers part of the contract.

Q. You mean the contracts made with the American Steel & Wire Company cover what you got from the Republic?

A. In some sizes.

Q. That is to say, does the contract made with the American Steel & Wire Company authorize you to get some of your requirements from the Republic?

A. The contract does not authorize at all—we do not guarantee to take out any—the contract is only a promise.

Q. What connection, if any, did the Republic or the supply from the Republic have with the contracts you made with the American Steel & Wire Company?

A. No more than some of that stock we got from them right along; we got some sizes from either one of them.

Q. You mean to say you could get from the Republic the same kind of thing?

A. No, I do not mean to say that; I say some sizes I got.

Q. What I do not understand is what you were saying about the Republic in connection with what I am asking you about your contracts with the American Steel & Wire Company; and to give you an opportunity of explaining I wanted to ask you whether you meant to say that in any way this contract with the American Steel & Wire Company had any connection with the Republic?

A. No, I might say it had no connection, no more than sometimes we placed the order with the one we thought would deliver us the best stock in a certain size.

Q. Then you mean to say, although you have a contract with the American Steel & Wire Company, you could, if you wanted, get some of those things from the Republic?

A. Yes, certainly.

Q. That is what you meant to say, was it?

A. Yes.

Mr. Lindabury: He said they do it, not only that they can.

By Mr. Dickinson:

Q. As a matter of fact, how much during these six months covered by this contract with the American Steel & Wire Company, have you bought from the Republic, and what sizes?

A. Well, now, we buy quite a lot of stuff from the Republic; I would not consider it in this contract. Of course we are on contract with the American Steel & Wire Company for wire and a certain class of nut stock, and the balance we contract with the Republic for certain classes of nut stock.

Q. Have you got a contract with the Republic for the last six months of this year?

A. We have for the last six months and prior to that.

Q. Take this contract for the current six months; what I meant by the last six months was the current six months; you understood it that way, did you?

A. Yes.

Q. Take the contract with the Republic for the last six months of this year; what material does that embrace?

A. That calls for small nut stock.

Q. What tonnage?

A. That would run about 100 tons a month.

Q. How much have you obtained from the Republic during the current six months?

A. About 100 tons a month.

Q. How much from the American Steel & Wire?

A. We run from them probably 250 tons a month.

Q. Well, then, take the first six months of the current year; how much did you get from the Republic a month?

A. About the same quantity.

Q. About 100 tons a month?

A. Yes, sir.

Q. How much from the American Steel & Wire Company?

A. Probably about 150 tons a month.

Q. How much from the Cambria?

A. That probably might run 100 tons, as near as I can tell from memory.

Q. When you made that contract with the Republic for the current six months of this year, state from whom you got bids for the material covered by that contract?

A. We got bids from the Lackawanna, Republic and Cambria.

Q. Now, what was the bid of the Lackawanna on that contract?

A. The price?

Q. Yes.

A. I could not recall that just from memory, but I know it was considerably more than what we paid the Republic for it.

Q. You cannot state what it was?

A. I think it was about—no, I could not give you the exact figures on that.

Q. How about the bid of the Cambria?

A. The Cambria Company was—there was not very much difference; there was about, if I remember, a dollar's difference.

Q. Do you remember that there was, or is that just a general idea?

A. I think, from my memory, that there was about that difference.

Q. Can you say that you do remember as a matter of fact that there was that difference; can you recall that such was the fact?

A. I would not want to be positive without I had my figures here.

Q. Then you do not undertake to say that you do remember, do you?

A. No; I would not be positive.

Q. Now, take these quotations and prices running over this time since the formation of the Foster Company for these various products that you have been buying, you said that the prices varied from time to time, did you?

A. Yes.

Q. Do you mean to say that there would be certain periods when, as compared with other periods, the prices would be higher or lower?

A. Yes, sir.

Q. Weren't there periods running over weeks or months at a time when the prices would be practically uniform?

A. Well, no; the only——

Q. I do not mean what you bought at, but I mean the prices made?

A. A manufacturer usually starts in the season and takes care of what he wants say for the next three or six months, sometimes three and sometimes six months. If we have to go out into the market to get a car of special wire we expect to pay a little more for it.

Q. I am not asking you what you expect to pay, and I am not asking you what you do pay, but I am asking you, isn't it

a matter of fact that over periods of time the prices quoted would be frequently uniform from various manufacturers?

A. I do not remember any time when they were uniform.

Q. But there were times were there not, when some of them quoted you the same price?

A. I do not know; I do not remember any time but what I could get a better price than some of them quoted.

Q. I am not asking that; I am going to come to that next, but when you go shopping, I am asking you now when quotations were made and before you began to dicker and bargain, did it not frequently happen at various times that the prices of several of the bidders would be the same?

A. I would not know that; I would not be in the market. I could not say what the price was when I was not in the market.

Q. Would you solicit quotations?

A. Not when I am not in the market.

Q. But when you were in the market?

A. Yes, certainly I would.

Q. Did you always buy on the first quotation?

A. Never.

Q. After you would get your quotations from various ones, you would then begin to bargain and trade, would you?

A. Yes, sir.

Q. You say you could always get something below the quoted price?

A. Always.

Q. Now, what I am asking you is this: Is it not a fact that on these first quotations it frequently occurs that the prices of several of the various manufacturers would be practically the same?

A. I do not remember it. I do not remember when they were always the same.

Q. Can you give the prices, at any particular time, of any of these purchases?

A. Yes; I can give you the prices to-day, or two or three weeks ago.

Q. I am not speaking of today, but I am talking of—we

will begin with 1909, when you went into business. How many written contracts did you make for your use during 1909?

A. I could not state from memory as far back as that.

Q. Do you know with whom you contracted at that time?

A. I can remember two or three of them.

Q. Did you only contract with two or three?

A. We do not have very many people on our books at once.

Q. Can you remember the prices at which you contracted, then?

A. No, I could not, back as far as 1909.

Q. Can you remember the prices that were quoted you before you traded to get your final price?

A. No; I could not go back as far as that.

Q. Have you any recollection about that at all?

A. No, sir.

Q. Take the year 1910: Would your answer be the same to the same series of questions?

A. Do I remember the price, you say?

Q. Do you remember the quotations that were first made to you, before you went bargaining and reached the final price upon which you contracted?

A. Yes; they varied. I can remember the quotations varied about one dollar a ton.

Q. For the year 1910, you say?

A. Yes.

Q. How many contracts did you make——

A. In nut wire they varied about three dollars.

Q. In 1910?

A. I am speaking of 1911; I will not go back as far as 1910.

Q. You will not undertake to go back there, or to give any variation as to price on what the bids or quotations were?

A. No, sir.

Q. Coming down to 1911: How many contracts did you make for your various purchases in 1911?

A. We made one with the Lackawanna Company, one with Bourne & Fuller, one with the Upson Nut.

Q. What others?

A. The American Steel & Wire Company and the Republic.

Q. That was five contracts, then, that you made for your requirements for 1911?

A. Yes.

Q. Is that all?

A. That is all the contracts; yes, sir.

Q. What was your contract with the American Steel & Wire Company? Did you have more than one for that year?

A. Yes; two, I think.

Q. You had two for that year?

A. Yes.

Q. What commodities did they cover?

A. Drawn wire and drawn nut steel.

Q. What time did you make the first contract that year with the American Steel & Wire Company?

A. In December of the previous year.

Q. And it ran for six months?

A. Yes.

Q. What proportion of your requirements for the year 1911, or for that six months, did this contract cover, with the American Steel & Wire Company?

A. What proportion of our contract?

Q. What proportion of your requirements in that article?

A. Oh, our requirements?

Q. Yes.

A. That was only a guess. We could not tell what our requirements were, because our business had been increasing right along. Probably we took out three-quarters or seven-eights—no, we took out three-quarters, I think.

Q. Of your contract?

A. Yes.

Q. What proportion was that three-quarters in those products that you used in that six months of your entire use for that six months?

A. We afterwards added to that.

Q. During that six months?

A. Yes; we added to the contract.

Q. Let me see. You first made your contract in December for six months?

A. Yes.

Q. You say you afterwards added to that contract?

A. Yes.

Q. When?

A. I could not just tell you the month. I know we found out that we were using more wire than we thought we were going to use, and we increased the contract.

Q. I mean in 1911.

A. Yes.

Q. The first part of 1911?

A. Yes.

Q. And of that increased contract you took out three-quarters, did you?

A. I should judge about three-quarters.

Q. What I want to know is: Take that three-quarters. What part was that of all of that character of stuff that you used during that first six months?

A. I don't think I quite understand.

Q. Did you buy from anybody else except the American Steel & Wire Company——

A. Yes; I bought from the Cambria.

Q. I had not quite finished my question. Please wait until I finish it.

Did you buy from anybody else except the American Steel & Wire Company the same class of material for the first part of 1911 that was covered by your contracts with the American Steel & Wire Company for that period?

A. Yes; we bought from Cambria.

Q. What percentage of your requirements did you buy from the Cambria during that six months?

A. I think about 30 per cent.

Q. When you made this contract with the American Steel & Wire Company in December, from whom did you take bids?

A. From the Cambria, the American Steel & Wire Company—well, I had quotations from Jones & Laughlin.

Q. So you had quotations or bids from the American Steel & Wire Company, the Cambria, and Jones & Laughlin?

A. Yes.

Q. What was the bid of Jones & Laughlin?

A. I think it was the same as that of the American Steel

& Wire Company, but—well, there is a little matter came up after that, but I shall not mention it, because it was just a question of veracity, that is all, between the salesman and myself.

Q. But you think that the bid was the same as that of the American Steel & Wire Company?

A. Yes.

Q. What was the bid of the Cambria?

A. The Cambria was, I think, a dollar higher.

Q. Do you remember, as a matter of fact——

A. Yes.

Q. (Continuing): ——that it was a dollar higher?

A. It was; certainly.

Q. In the quotations or solicitations did you specify just exactly what you wanted, and the time of delivery, and the terms of payment?

A. We did not specify anything.

Q. What did you——

A. We specify for it as we require it. With the American Steel & Wire Company we only specify about two weeks ahead; and with the Cambria people we used to have to specify three months ahead.

Q. You had to specify with them three months ahead?

A. Yes.

Q. Did you understand that, when you solicited them to bid?

A. I did.

Q. Did they bid on all the same material that the American Steel & Wire Company bid on?

A. They do not say anything about what they are bidding on. We guarantee to take out so much tonnage of wire.

Q. But you knew, as a matter of fact, that the Cambria could not bid upon all the kinds of wire that the American Steel & Wire Company was bidding on under that contract?

A. There is nobody else makes that class of wire that I know of in our neighborhood that we can drawn upon; nobody that could make certain classes of it.

Q. Except whom?

A. Except the American Steel & Wire Company.

Q. So that the American Steel & Wire Company was the only company that was making the class of wire you wanted?

A. It all goes in the same specifications.

Q. What class do you mean?

A. When they bid for tonnage wire, they bid for wire. We do not specify any size at all. We can take any size they make. It is all the same price.

Q. What did you mean to say when you said the American Steel & Wire Company was the only one in that section that could make certain classes of wire?

A. Very small drawn wire.

Q. How much——?

A. We do not use very much of it anyway.

Q. However, as much as you did use was embraced in this contract?

A. Yes. Not particularly in that contract, because when we make a contract it is for any kind of wire we want.

Q. But you could call for it under that contract?

A. We could call for it under that contract.

Q. Your contract did not specify any particular sizes, but it was understood, when you contracted with the American Steel & Wire Company, that you could call for that size?

A. Yes, sir.

Q. But when you made a contract with the Cambria Company that you could not call for that size?

A. They did not say anything about it, any more than in the case of the American Steel & Wire Company. They just contract for so much wire.

Q. But you knew very well there were certain sizes that you could not get from the Cambria?

A. No, I did not. I do not know it today. I do not think they draw it, but I do not know that they do not draw it. I do not believe, at that time, they were drawing it. I do not know whether they are drawing it today or not.

Q. Please explain what you meant a while ago when you said, as I understood, that the American Steel & Wire Company was the only one that made certain kinds of wire.

A. Yes; they draw a smaller wire than any of the other

mills have been drawing, as far as I know. I have never been able to get it elsewhere—for stove bolts and so forth.

Q. Then you could get smaller wire from them than you could from the Cambria?

A. I suppose we can; I do not know anybody else at the present day that is drawing it.

Q. You have been acting upon that assumption?

A. Yes.

Q. Does not your contract which you make for a certain period in some way indicate the kinds of wire upon which the prices are to be paid?

A. The wire is all the same price.

Q. What is the base size of your wire?

A. That is a different proposition altogether; that is on nut steel and rounds. No wire is bought on a base price. All wire is all one price. What you are trying to get at is—you take hot bars, any kind of hot rolled stuff is sold on a base price with extras according to the size of the steel.

Q. Give the largest and also the smallest size of wire you use?

A. We use from one-quarter up to half inch.

Q. Those are the extremes, are they?

A. Yes.

Q. What sizes of bar steel do you use?

A. We use bar steel from one quarter up to one inch.

Q. And rounds; what are those sizes?

A. They run about the same; well, a half up to one inch.

Q. What are the base sizes of your bars?

A. Well, .985. There are three large sizes. The three largest sizes are usually base.

Q. What are those sizes?

A. Well, it is what we call inch, $\frac{7}{8}$ and $\frac{3}{4}$.

MR. LINDABURY: Before you answer further, what is .985?

THE WITNESS: That would not be of any use to you; that would be our size. Somebody might make .990. That is just the particular size we use.

MR. LINDABURY: That doesn't mean inches?

THE WITNESS: No; that is the size in circumference. What you want is, the sizes you want are inch, $\frac{7}{8}$ and $\frac{3}{4}$.

By Mr. Dickinson:

Q. Do they correspond to the base sizes used in the general trade quotations?

A. That is, in steel. The iron market, their bases do not run quite as low as that.

Q. Do you buy any iron bars?

A. We do.

Q. When you speak of the iron market do you speak of that class of material?

A. Yes.

Q. Take 1912, what was the lowest price per ton for your bars that you purchased at?

A. 1912?

Q. Yes, what you call base size?

A. I could not tell you from memory.

Q. Can you give it for 1913?

A. No, we had stuff delivered in 1913 that I think cost as low as $1.15 base.

Q. What time was that?

A. That was delivered from an old contract.

Q. When was that contract made?

A. The year previous.

Q. 1912?

A. Yes.

Q. What time in 1912?

A. Along in the spring.

Q. Who was that contract made with?

A. The Cambria.

Q. What was the tonnage of that?

A. I could not tell from memory now.

Q. Is this coiled wire you have been buying?

A. It is all coiled. The Republic was all coiled stock too.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. What is coiled wire as distinguished from wire of similar size?

A. Well, we have to have it coiled to run it on the machine.

It is run on cold headers automatically, and the other used to be all fed by hand from bars ten to twelve feet.

Q. So that it is coiled merely for convenience in handling?

A. For convenience in handling.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS

WILLIAM D. TAYLOR

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Lindabury:

Q. Mr. Taylor, where do you live?

A. Cleveland, Ohio.

Q. What is your business?

A. Hardware jobbing business.

Q. Have you a corporation?

A. Yes, sir; The George Worthington Company.

Q. Is the word "The" a part of the title?

A. Yes, sir.

Q. The George Worthington Company?

A. Yes, sir.

Q. What is your connection with the company?

A. I am president of the company.

Q. How long has that company been in business?

A. It was founded in 1829; it was incorporated some twenty years ago.

Q. That must be one of the oldest concerns in your line of business in Ohio.

A. I think it is; in the Middle West.

Q. Or in the Middle West?

A. Yes, sir.

Q. Does your company do a considerable business?

A. Yes, sir; we do quite a business in the States of Ohio, Michigan, Indiana, northern Kentucky, West Virginia, Pennsylvania and New York State; our principal business.

Q. Could you give an idea of your annual turn-over in dollars?

A. I suppose I could, but I do not know as I care to.

Q. Then you need not. Would you mind stating approximately the value of the stock you carry?

A. Well, about a million dollars of stock.

Q. You have warehouses, of course, where you carry such stock?

A. We have seven.

Q. Seven warehouses?

A. They are all connected together.

Q. How much acreage do they cover?

A. About 12½ acres.

Q. That is, of floor space?

A. Of floor space, yes, sir.

Q. You are president, are you not, of the Wholesale National Hardware Jobbers' Association?

A. Yes, sir.

Q. Have you been in the steel and iron jobbing business all your life?

A. Yes, sir.

Q. And how many years' experience does that give you?

A. Well, I went with the company when I was seventeen and I am twenty-one plus now. I don't know as that would answer the question, about forty years.

Q. Does the Worthington Company handle sheet and tin plates?

A. Yes, sir.

Q. Extensively or not?

A. Quite extensively.

Q. How do you buy your stock of sheets and plates, on contracts or from time to time as you may find your stock running low?

A. Sometimes on contracts; the past year hand to mouth, no contracts.

Q. I suppose on a falling market you buy from hand to mouth?

A. Usually so.

Q. And on a rising market you buy on as long time a contract as you can get?

A. Yes, and as large ones as we can get.

Q. Then you buy in one way and another very much according to your estimate of the market conditions? Is that right?

A. Yes, sir.

Q. And is your trade solicited by the manufacturers?

A. Yes, sir.

Q. I am speaking now of sheets and tin plates: About how many solicit your trade; I am just asking for the number now.

A. I should think about all of them. The minimum possibly would be four or five from that up.

Q. Up to what?

A. About everyone that makes sheets.

Q. How many are there?

MR. DICKINSON: Excuse me a minute. You speak of sheet and tin plate as the same?

THE WITNESS: He is asking me along the line of the United States Steel Corporation. They have a subsidiary company known as the American Sheet & Tin Plate Company.

By MR. LINDABURY:

Q. To clear it up in Judge Dickinson's mind, I will ask you whether or not, speaking generally, the same concerns that make sheets also make tin plates?

A. Generally they do, but not altogether.

Q. We know the American Sheet & Tin Plate Company; generally they do——

A. Now, wait a minute. I do not think that could be applied generally. There are quite a number though that make tin plate and sheets. There are more that make sheets that do not make tin plates.

Q. Suppose you give us the names of those that make both, so far as you are able to recall them at the moment.

A. The Carnahan Sheet & Tin Plate Company, at Canton. Perhaps my memory is not as good on this. For some years I have not purchased that line. I used to purchase the sheet iron and another gentleman purchased the tin plates, so that perhaps I cannot give you quite as much information as I otherwise could. Then there is another concern, I do not know as I recall it now, that makes the tin plates as well as the sheets. I think there are two of them in Canton.

Q. Ohio?

A. Yes, sir. I forget the other one.

Q. But one is the Carnahan?

A. Yes, sir.

Q. And the other that you last referred to you do not recall the name of?

A. I do not remember just now.

Q. I think you need not answer further. Let me ask you whether or not you usually contract for both sheets and tin plates at the same time, or whether your orders for those are generally separate.

A. They are generally separate. We have a buyer for tin plates and a buyer for sheets, and roofing plates, too; he buys the roofing sheets as well.

Q. The gentleman who buys the sheets?

A. The gentleman who buys the sheets buys the roofing sheets. There is a large amount of that, metal roofing sheets.

Q. Do you sometimes solicit quotations for your wants?

A. Yes, when we are in the market we do.

Q. Is that an ordinary or common practice with you?

A. That is a common practice.

Q. When you wish to buy?

A. Yes, sir.

Q. Do you buy periodically or generally as you may find need?

A. As I stated in the beginning, we at the present time, on a declining market, buy as we need, from hand to mouth. If there is a prospect of an advance, we will cover ourselves with contracts.

Q. I take it, however, from what you have said, that there is no periodicity about your contracts?

A. No, sir.

Q. From whom do you invite quotations on sheets?

A. The American Sheet & Tin Plate Company, the Youngstown Sheet & Tube Company; lately there has been a consolidation at Niles, and they call themselves—I cannot recall the name of the corporation there; it used to be the Brier Hill Sheet Company; and the Empire Sheet Company. I think there were two others that are consolidated into what is known as——

Q. The Brier Hill-something——

A. Yes; I think it is.

Q. I have forgotten the rest of the name.

MR. COLTON: You had a witness that testified about that consolidation the other day.

MR. LINDABURY: We had the sales agent. I have forgotten the name.

THE WITNESS: I have forgotten it too. I am not buying that material just at present. Then there are several others. The sheet people are more numerous than the tin plate people. There is one quite large mill at Canal-Dover.

By MR. LINDABURY:

Q. The other Canton concern is the Berger Company, is it not?

A. Yes, I think it is.

Q. So Mr. Anderson tells me. That is all I know about it. About how many are there in the business of manufacturing sheets?

A. I would say there must be eight or ten or more.

Q. And about how many are there manufacturing tin plates?

A. Not as many. I could not give you an accurate number, but possibly four or five.

Q. Has there been, during the last ten years, competition in the sale of sheets?

A. Yes, sir; there seems to be a good deal of competition in sheets.

Q. Has there also been competition in the sale of tin plate?

A. Yes, but not as much, of course, as in sheets.

Q. Because there were not so many in the business?

A. Not so many in the business.

Q. With regard to sheets, how has that competition manifested itself?

A. By a sharp solicitation of our business; and we could always get some very low prices from what we might term the independents.

Q. Then have the quotations on sheets been variant during the last ten years?

A. Yes, sir.

Q. Markedly so?

A. I do not know what you would term markedly so. Anywhere from one to three dollars a ton.

Q. And has that been true of the whole period of which we are speaking? I do not mean just the same always, but has there been variation during the whole period?

A. During what length of time?

Q. Ten years.

A. Yes, sir.

Q. What percentage of your sheets have you bought from the American Sheet & Tin Plate Company?

A. In what time?

Q. Ten years; or a shorter period, if you have a shorter period more definitely in mind.

A. Probably I ought not to go back farther than 1904.

Q. Very well; since 1904?

A. 1903 or 1904; I should judge about ten per cent. we bought of the American Sheet & Tin Plate Company.

Q. Among whom has the balance of your orders been distributed?

A. Do you want me to name the companies?

Q. Some of them, if you recall.

A. The Youngstown Sheet & Tube Company; this Empire mill, before they were consolidated there at Niles; I do not know that I could give you the names of others just now.

Q. No matter. Does what you have said about sheets apply to roofing sheets as well?

A. Yes, sir.

Q. You intend it to cover roofing material, in your answer?

A. Yes, sir.

Q. Now, about tin plates: Have the quotations on tin plate been the same, or have they varied also?

A. To my knowledge they have varied. We have bought very little of the American Sheet & Tin Plate Company, but I cannot give you definite information on that subject, as our Mr. Rudd buys that largely.

Q. Do you keep generally informed as to prices?

A. Yes, sir. Not in reference to tin plate.

Q. Do you mean you are not acquainted with the quotations on tin plate?

A. No, sir; not especially. I leave that to Mr. Rudd.

Q. But are you in a general way?

A. I do not think I would be qualified, sir, on that.

Q. All right. If you have not information, of course you will say so. I only want to get what you do have. Is that true of this whole period of time here that you have not been at any time so in touch with the matter that you have personal——

A. (Interposing): Not as to tin plate; no, sir, I have not. As to sheet iron, I have.

MR. DICKINSON: You say sheet iron?

MR. LINDABURY: That is, sheets.

THE WITNESS: That is, sheets.

MR. DICKINSON: Steel?

THE WITNESS: Galvanized sheets—merchant sheets, what we would carry in stock; black sheets and galvanized sheets also.

By MR. LINDABURY:

Q. These are steel products?

A. Yes, sir; steel products.

Q. Do you buy tubular goods?

A. Yes, sir; we do; quite largely.

Q. That is, you handle a considerable tonnage?

A. Yes, sir; pipe and fittings, and all that.

Q. Could you give us an idea, going back for a moment, of your tonnage in sheets?

A. What do you mean—for six months or a year?

Q. By the year.

A. I think 750 to 1,000 tons a year.

Q. What about your tonnage in tubular goods? I am including, you see, in that term all kinds of pipe and the particular products.

A. Well, I should judge we handle 1,000 to 1,500 tons.

MR. DICKINSON: Is that for a year?

THE WITNESS: Yes.

By MR. LINDABURY:

Q. Do you buy those in substantially the same way as you do sheets?

A. Yes, sir.

Q. And do the quotations on tubular goods come in variant or uniform?

A. Well, they are about the same as sheets, only not as much so.

Q. From how many different concerns do you obtain quotations on tubular goods?

A. Oh, I should say five or six.

Q. Do you buy from the National Tube Company at all?

A. Yes, sir.

Q. What percentage of your tubular goods do you buy from them?

A. I should say about 30 per cent.

Q. How long has that been so?

A. Oh, for the last five or six years.

Q. Has the competition in the sale of tubular products been keen among the different manufacturers?

A. Yes.

Q. By keen I mean active, of course.

A. Active.

Q. Do their salesmen visit you?

A. They do.

Q. With what frequency?

A. They average about thirty days.

Q. They come around about that often?

A. Yes.

Q. From whom else do you buy tubular goods?

A. From the Youngstown Sheet & Tube Company.

Q. Considerable?

A. Quite largely.

Q. What others?

A. Longmead Company.

Q. Where is that?

A. They are in eastern Pennsylvania; and Byers Company.

Q. Where is that?

A. Pittsburgh; and there are some others that I cannot recall the names of.

Mr. Rudd buys that mostly too.

Q. Do you handle bars and bar steel?

A. In a limited way. We have a carriage department and we handle probably ten or twelve carloads of that a year, known as steel tire; the only difference between steel tire and the other bars is that it is put up in sets or bundles—wagon tired; they are cut to lengths, and the front tires are shorter than the rear ones. That is the class of bars we handle, practically.

Q. Is there competition in them?

A. Yes; I should judge there was. I do not buy that, but I know in a general way.

Q. That there is competition?

A. Yes.

Q. From whom do you buy your wagon tire bars?

A. Cambria Steel Company.

Q. Do you buy any of them from Carnegie?

A. No, sir; we do not.

Q. How long have you been dealing in them?

A. I guess since the company was started; that was a large part of their business in the early days, carriage material.

Q. Do you mean to say that it is now?

A. No, not now; you asked me the question how long we had been dealing in them.

Q. Yes; your answer was proper enough, but you do not say that now it is of the same relative importance?

A. No, sir.

Q. Do you handle wire goods, wire products?

A. Yes; very largely. Does that question refer to nails and merchant wire? Is that the question?

Q. It refers to wire nails.

A. Yes, wire nails quite largely.

Q. And you purchase wire, of course?

A. Yes.

Q. Quite a large amount?

A. Quite a large amount for our business.

Q. What tonnage of nails—or carloads, I think they are usually spoken of in carloads?

A. Perhaps it would be a better way to put it tonnage, and then it covers nails and wire.

Q. As you choose.

A. Oh, I should say the yearly amount that we handle is in the neighborhood of 5,000 to 8,000 tons.

Q. Has there been competition amongst manufacturers in the sale of wire products?

A. There has.

Q. Are you able to buy from some at a cheaper price than from others?

A. Yes, sir.

Q. How much difference in nails, for instance? I understand that you handle considerable nails, do you not?

A. Yes; when we speak of nails it will apply to all merchant wire the same.

Q. Yes; how much?

A. Oh, a dollar a ton; sometimes a little more.

Q. Nails are sold somewhat close, are they not?

A. Yes. When you sell them for direct shipment; out of stock we get a better price.

Q. When you sell for direct shipment does that differential fall below the ordinary profits?

A. For carload shipments that is about all we can get, $1 a ton profit.

Q. Has there been, not that same difference, but a substantial difference for a considerable period of years?

A. A number of years, yes.

Q. In the conduct of this business, that is, in the selling end of the business, have you competition?

MR. DICKINSON: I object to that as irrelevant.

THE WITNESS: Yes, a great deal of it.

By MR. LINDABURY:

Q. Is that keen?

A. Very.

Q. And active?

A. Yes.

Q. And does it necessitate, or does it not, close buying on your part?

A. It does.

Q. From whom do you meet that competition; that is, from jobbers?

A. Largely.

Q. In Cleveland?

A. Yes; and in other cities in the territory in which we sell goods.

Q. In what territory do you sell?

A. I mentioned it a little while ago, in the States of Indiana, Ohio, Michigan, northern Kentucky, West Virginia, Pennsylvania and New York State.

Q. And it is in that territory that you meet the competition that you allude to?

A. Yes; there are jobbers in all the principal cities.

Q. And are they active in all those cities?

A. Yes.

Q. Has that been so during the period of years I have asked about?

A. Yes.

Q. Now, have you ever observed anything unfair in the conduct of the American Steel & Wire Company or the other United States Steel subsidiaries with which you have dealt in their attitude toward yourself or their competitors?

MR. DICKINSON: That is objected to as incompetent, because it calls for an opinion and interpretation of a witness upon

facts that may be in the witness' mind, but are not shown, and does not call for any statement of facts.

THE WITNESS: No, I have never seen anything of that kind.

By MR. LINDABURY:

Q. Have they ever refused to sell to you or to serve you in a business way because you did not buy all or more of their products?

A. They never have, and they have always been anxious to sell it.

Q. Without regard to your purchases from others?

A. Yes.

Q. Have you ever observed any conduct upon the part of the United States Steel Corporation or of any of its subsidiaries which appeared to restrain trade in any steel products?

MR. DICKINSON: This is objected to as incompetent because it calls for a conclusion and opinion of the witness and an interpretation of facts which may exist in his own mind and facts which are not proven upon the record.

THE WITNESS: I never have; no, sir.

MR. LINDABURY: You may take the witness. Of course you will not cross examine on any point that you object to.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Taylor, you have been buying, have you not, fully 50 per cent. from the American Steel & Wire Company of wire products?

A. I said about 60 per cent. of wire.

Q. Of the American Steel & Wire Company?

A. Yes; and about 40 per cent. from independents.

Q. And the Steel Corporation has not complained of that?

A. No, sir.

Q. And have not been making any reprisals on that account?

A. Three years ago at Memphis, at a meeting of our National Hardware Association, Mr. Baackes advised us to buy of them.

Q. Advised you to buy from the independents?

A. Yes, sir.

Q. Was that in a public statement?

A. Yes, sir; in our convention.

Q. Made two or three years ago?

A. That was three years ago, at a meeting in Memphis.

Q. Now, Mr. Taylor, you were asked about the amount of stock which you carried, and you said it was about a million dollars?

A. Yes, sir.

Q. Do you carry vehicles, wagon material?

A. Yes, wagon material.

Q. Do you carry finished hardware?

A. Yes, general hardware.

Q. Cutlery?

A. Yes, sir.

Q. Any farm implements?

A. Very little.

Q. You carry some, do you?

A. Not what you would call farm implements; hay cutters, corn shuckers.

Q. Garden implements?

A. Yes.

Q. Lawn mowers, and things of that kind?

A. Yes.

Q. You have a great variety in your stock, other than nails and sheets and wire products, haven't you?

A. Yes, sir.

Q. And you do not mean to intimate that you have anything like a million dollars of such products as that in your stock?

A. No, sir; I did not say that.

Q. No, I did not understand you to. You are president of the company?

A. Yes, sir.

Q. How long have you been president of the company?

A. Five years.

Q. Do you have departments in your company?

A. Six.

Q. How many employees have you?

A. About 400.

Q. 400 employees?

A. Yes, sir.

Q. The final result of this business, so far as directing its policy, all centers in your office, doesn't it?

A. Yes, sir.

Q. You are the general directing and responsible supervising head?

A. Well, with others; yes, sir.

Q. The others, however, are under you, aren't they?

A. Yes, sir.

Q. You are the chief executive officer?

A. That is what they usually call the president.

Q. I have seen some presidents that were not in fact, but you are in fact as well as in name?

A. Yes, sir; for twenty years I might say that.

Q. Now, a great many things daily claim your attention in the administration of a large business of that character?

A. Yes, sir.

Q. Are you away from home at times?

A. Not much.

Q. But you are, at times?

A. I am away to-day, yes; and I was away a week ago for a week.

Q. And you go off from time to time?

A. No, sir; not very much.

Q. Don't you take any vacation?

A. Not very much. Once in a while I do.

Q. In these departments, you have selling departments and buying departments, have you?

A. Yes, sir.

Q. People in charge of the various classes of things that you buy?

A. We have buyers for departments; yes, sir.

Q. Well, now, how many different buyers have you?

A. Five.

Q. Five different buyers?

A. Yes, sir.

Q. I believe that you said that so far as tin plate was concerned, you did not give that any personal attention at all?

A. That is right.

Q. You could not give any statement in regard to prices of that?

A. No, sir.

Q. Who is your buyer for wire products such as nails and other wire products that you group together?

A. I am the buyer for that.

Q. Are you the buyer for that?

A. I have been for many years.

Q. Have you no one that acts with you or in conjunction with you in regard to that?

A. No, sir.

Q. You supervise all that yourself?

A. Yes, sir.

Q. Do you buy wire nails and wire—I mean wire nails and wire products under contracts, or do you buy part of it on contracts and part of it from time to time as emergencies arise on account of the demand in your business?

A. I answered that question, that on a declining market, as there has been for the past year, we do not have contracts. When we think it is going up, we try to get a good big one.

Q. How long do those contracts run?

A. Sixty days.

Q. Is that about the limit?

A. Yes, sir.

Q. When did you have your last written contract?

A. A year ago.

Q. With what company was that?

A. The American Steel & Wire Company, Youngstown Sheet & Tube Company, Pittsburgh Steel Company, and possibly one other.

Q. Were they made at the same time or at various times?

A. Various times.

Q. What was the longest time that any of those ran?

A. Sixty days.

Q. None of them ran longer than 60 days?

A. That is the time. They do not treat us as well as they do the manufacturers.

Q. Who does not treat you so well?

A. Well, all the manufacturers of wire products.

Q. You mean to say they do not treat the jobbers as well as they do the manufacturers?

A. A gentleman before to-day testified he had a six months contract. I think that is usual with manufacturers, but not with jobbers.

Q. They decline to make any longer than 60-day contracts with you?

A. Yes, sir.

Q. You would make a longer one if you could?

A. Yes, we always do the best we can.

MR. LINDABURY: On a rising market, he says.

By MR. DICKINSON:

Q. I mean, when you want to make a written contract there are times when you would like to make it for longer than 60 days?

A. Yes, sir.

MR. LINDABURY: And at times shorter.

MR. DICKINSON: I do not think he said that.

By MR. DICKINSON:

Q. You did not state that you would like to make them shorter?

A. I said we buy from hand to mouth now. We have not had a contract for a year.

Q. Those are not written contracts now?

A. No, sir.

Q. Mr. Taylor, you are entirely a middleman, aren't you, between the manufacturer and consumer?

A. What they call us, the hated middleman, some do.

Q. Do you accept that epithet?

A. We do not.

Q. Some people do call you that?

A. Yes, sir.

Q. Mind you, I have not called you that.

A. I know.

Q. Mr. Taylor, how long have you been buying wire and wire products, nails and other wire products?

A. Twenty years or more.

Q. Now, take a period back, say, in 1903, and 1904, and 1905, isn't it a fact that during that period the prices were maintained on a more constant basis in nails and wire products than they were at some periods subsequent to that?

A. I do not think so.

Q. You do not think so?

A. No, sir.

Q. Don't you know, Mr. Taylor, that for a long period of time—I mean for six months at a time—on nails, wire products, the first quotations from manufacturers to you would be substantially the same; and if you got a less price it was a matter of bargaining and shopping with you?

A. That might be true, sir.

Q. Is it not true?

A. It is true. For illustration the price to-day has been made of $1.60, Pittsburgh, for nails. Supposing it should advance to $1.70.

Q. Have you finished?

A. No, sir. The price will change. Somebody, I suppose, advances the price, and the rest of them will change about the same time.

Q. Then, so far as the market price is concerned, especially on the first quotations, they keep along together, do they not?

A. I should answer that yes.

Q. That has been true generally, has it not, throughout this period?

A. Yes. There cannot be very much difference in price——

Q. But you——

MR. LINDABURY: One minute, Judge. Please do not interrupt him. He has not quite finished.

THE WITNESS: I was going to say the price of nails could not vary very much from one manufacturer to the other; possibly not more than $1 a ton.

By Mr. Dickinson:

Q. With these prices, as you say, being generally uniform on first quotations to you, you have been able to buy at various times, by bargaining, below the market price, have you not?

A. If you mean the price quoted by the American Steel & Wire Company—would you call that the market price?

Q. What would you call it?

A. I would call it the market price.

Q. And is that generally so accepted?

A. They are the largest single producers in the country.

Q. And you would call that the market price?

A. Yes, sir.

Q. Is it not a fact that that price has been frequently quoted to you by others than the American Steel & Wire Company, and then that you, by bargaining, were able at times to buy below that price?

A. At practically all times.

Q. What do you mean by "practically at all times"?

A. During the last ten years.

Q. I do not exactly catch your answer. You say practically at all times, and during the last ten years. Do you mean to say that these quotations have been generally uniform during that period, but that you have been able to buy below them?

A. Yes.

Q. That is what you mean?

A. That is what I mean. Let me illustrate: If the price was $1.80—we will call that the market price, by the American Steel & Wire Company—we were able to buy at a less price than that.

Q. By the American Steel & Wire Company and by others? Would it not be so?

A. No, sir.

Q. Do you not understand what I said?

A. I do not, unless you mean that the American Steel & Wire Company would make a lower price?

Q. No; I do not mean that. I mean to say that, upon this price that the American Steel & Wire Company——

A. For illustration——

Q. You do not let me finish my question. Probably we will get along more rapidly if you do.

A. Excuse me.

Q. What I mean to say is this: That the quoted market price is the price of the American Steel & Wire Company, and that is understood as the market price. Is that correct?

A. That is correct.

Q. That on the first quotations other dealers have given you frequently the same price. Is that correct?

A. Other manufacturers, you mean?

Q. Other manufacturers.

A. They might give it to us. That is not the price, however, I can buy them at.

Q. I am getting to that next.

A. All right.

Q. Then when you have bought, you have bought below this price?

A. Frequently, yes, sir.

Q. And sometimes not?

A. No. I would say for the last five years we had a lower price, from the independents, I would call them.

Q. How about before the last five years?

A. The same thing, only there were not so many.

Q. Then you have gotten this price by bargaining for it, have you?

A. That is the business of our buyers, if you would call that bargaining. When they want to buy goods it is their business to go into the market and see what they can get them for, from any manufacturers that make the same lines. If that is bargaining, that is what they do.

Q. You are a large dealer, are you not, comparatively?

A. Yes, for a jobber; we are the largest in the Middle West.

Q. At times does not the fact of the size of your purchase have an effect upon the price that you obtain?

A. I don't think so, with the American Steel & Wire Company.

Q. I am not talking, now, about the American Steel & Wire Company. I am talking about your purchases on the market. Is it not a fact that where you are buying a large quantity, the very fact of the size of your business and your trade, and the volume of that purchase, enable you, at times, to get better prices than if you were buying a very small amount, comparatively?

A. It ought to.

Q. Does it not?

A. I don't think it does.

Q. You do not think it does?

A. No, sir.

Q. And you do not think that you can go to a manufacturer and, because you have a large offer of purchase to make, that that helps you in your bargaining, and getting a price?

A. Not over a regular jobber who does, possibly, half or seventy-five per cent. as much business as we do.

Q. Then you compare it with one doing half or seventy-five per cent.?

A. Yes.

Q. Suppose it sells very much below that amount?

A. We would certainly get a better price.

Q. Then the volume of the purchase does have an effect upon the price you obtain under these negotiations, does it not?

A. Yes; according to the business you buy. It is the difference between a retailer and a jobber.

Q. What I am asking you about prices and quotations and bargaining applies to all the wire products that you have been purchasing, does it?

A. Yes, sir.

Q. Who has bought the sheets for your concern?

A. Up to the last two years I used to buy them.

Q. Within the last two years who has bought them?

A. Mr. Fry.

Q. Within that time have you had anything to do with the

question of taking prices and bargaining and following quotations?

A. In a general way.

Q. In such a way as would enable you to give what the prices were on the particular transactions?

A. No; I don't think it would.

Q. But back of that time you did attend to that?

A. Yes; I bought the sheets.

Q. Two years ago what was the extent in tonnage of the purchases of your concern in sheets? That would be 1911.

A. What do you mean? In tonnage?

Q. Yes.

A. Oh, I should think a thousand or fifteen hundred tons.

Q. The year before that about how much?

A. Not quite so much. I would reduce it about 20 per cent.

Q. That would be about 800 to 1,200, would it not?

A. Yes.

Q. 1909?

A. 1909 it would be probably 20 per cent. less. When we had the year of the panic, we did not get over that.

Q. Now, take 1907; do you know for that year what percentage of sheets was bought under contract and what percentage bought from time to time?

A. That year I would say it was practically all bought on hand to mouth.

Q. Hand to mouth?

A. Yes, it was a bad year, you know.

Q. And they would be in various amounts, would they?

A. That would be carloads.

Q. And the purchases of that character would be much more frequent that when you had contracts?

A. Certainly.

Q. Do you know the number of purchases in 1909 that you made of sheets?

A. No, I cannot tell you that.

Q. Can you tell from whom you purchased that year, or the prices?

A. I could not give the prices, either.

Q. Did you buy sometimes from middlemen and sometimes direct from manufacturers?

A. We bought from manufacturers always.

Q. Do you know what the quotations were that year, to what extent they varied? Could you give a statement about that that would be reliable?

A. I do not think I could, sir; I haven't those figures with me, to give you the exact figures.

Q. Now, you spoke of a market price in wire products. Was there a price known as a market price for sheets also?

A. Yes.

Q. Of what company was that the price?

A. I should say it was the American Sheet & Tin Plate Company.

Q. That was the largest producer?

A. Yes.

Q. By all odds the largest, was it not?

A. No, I think not; as I remember it, when they were first formed, they had about 85 per cent., and they dropped to about 40 per cent. in 1908 or 1909 or 1910, along there.

Q. Do you undertake to say that you know in 1909 the percentage of steel sheets in the United States that were produced by the American Sheet & Tin Plate Company?

A. You are talking about the entire production for the United States?

Q. Yes, and their percentage of the entire production.

A. That is as I understand it.

Q. That is as you understand it?

A. Yes, that it dropped to about 40 per cent.

Q. Did you ever have any statement direct of the production of all the various manufacturers for that year of the United States?

A. Did I ever have any?

Q. Yes.

A. Yes, sir.

Q. From what source?

A. From different manufacturers.

Q. Made to you?

A. Yes.

Q. Of the amount of production that each made?

A. The amount of production that the American Sheet & Tin Plate Company had made.

Q. Let me understand you. You mean to say that you had made to you a statement for the year 1909, made by manufacturers of sheets, in respect of the amount of sheets that were then made for that year by the American Sheet & Tin Plate Company?

A. Yes.

Q. In what form were those statements made to you, when were they made, and who made them?

A. The statement I made shortly before this was that the American Sheet & Tin Plate Company at their formation, or about that time, controlled about 85 per cent.; but in 1909 or 1910 it dropped to about 40 per cent. or 45 per cent.; that statement was made by various mills, the Youngstown Sheet & Tube Company, for one, their representative.

Q. You state that a representative of the Youngstown Sheet & Tube Company stated to you that in the beginning the American Sheet & Tin Plate Company made about 85 per cent., and that in 1909 or 1910 it dropped to 40?

A. 40 or 45.

Q. Is that the only statement that was made to you on that subject?

A. No; I think others made it.

Q. What others, and when?

A. I cannot tell you.

Q. Who made that statement, of the Youngstown people, to you?

A. I cannot recall his name now. I can shortly, probably. Mr. Manning is now the general manager of the Youngstown, and before that it was Mr. ———. I cannot give you his name now. I will, though.

Q. What else do you base that volunteered statement on, because it was not in response to any question from me, that in 1909 the American Sheet & Tin Plate Company only made 40 per cent.?

A. 40 or 45.

Q. You first stated 40, and now you say 40 or 45.

A. Yes.

Q. On what other authority do you make that statement?

A. General authority, general observation; statements made by people who came to sell us goods.

Q. Now you say general authority. Just explain what you mean, first, by "general authority."

A. General? Other manufacturers who were engaged in the same business, making sheets.

Q. That is what you mean by "general authority"?

A. Yes.

Q. Now, you said by "observation."

A. Yes.

Q. What does your observation amount to?

A. Possibly nothing.

Q. Possibly nothing?

A. No, if you figure that.

Q. I will come back to the question I put to you a while ago. Did you ever have any reports or statements purporting to give for the different manufacturers of sheet steel the amount of sheet steel made by different manufacturers in 1909 in the United States?

A. I think I have.

Q. Now, just state what concerns they were, in what form those reports were, when they came into your possession, who made them, and what they showed.

A. I cannot give you anything more definite than I have. I think you will find in some of these printed reports something on that.

Q. I am trying to find out just what you said you had. Is that all you can tell?

A. That is all I can tell.

Q. And you cannot give the name of a single manufacturer of sheet steel in respect to which it showed the output of that manufacturer for 1909?

A. I told you that I would give you one. As soon as I recall it, I will. The Youngstown Sheet & Tube Company's man —Day is his name.

Q. What did he tell you?

A. That is what he told me.

Q. Told you what?

A. That the output had dropped from about 85 to 40 or 45 per cent. of the entire production of sheets in the United States.

Q. He was dealing with the percentage of the whole situation, wasn't he?

A. Yes.

Q. Did he give you the output of any single manufacturer?

A. Of a single manufacturer?

Q. Yes.

A. He gave me that of the American Sheet & Tin Plate Company.

Q. Then he was giving you his idea, wasn't he?

A. Yes; I supposed he knew.

Q. You supposed he knew?

A. Yes.

Q. And that is what you based your statement on, was it?

A. Not altogether; no, sir.

Q. Just tell me the balance that you based it on, for I want to know.

A. I cannot give you anything any more definite than I have.

Q. That is all that you can give?

A. Yes, sir.

Q. As the basi for your statement?

A. Yes, sir.

Q. You spoke of the market price of sheet steel being that of the American Sheet & Tin Plate Company, did you not, that that was what you accepted as the market price?

A. Yes, sir.

Q. How long has that been so?

A. Eight or ten years.

Q. Ten years?

A. Eight to ten years.

Q. You being a middleman, have bought from the manufacturers, and you say that you have gotten purchases below that market price?

A. Yes, sir.

Q. Do you say that you have done so at all times?

A. Yes, sir.

Q. At all times?

A. Yes, sir.

Q. Below that market price?

A. You mean by the market price the American Sheet & Tin Plate Company's price?

Q. That is what I mean by it?

A. Yes, sir; that is what I mean, understand me.

Q. And you did this by taking bids and then bargaining with the various bidders?

A. Yes, sir, if that is taking bids from them, bargaining, yes.

Q. I do not want to put words in your mouth.

A. Bargaining, that is what you call it, I understand.

Q. Shopping, it is sometimes called, is it not?

A. Yes, sir. You can call it shopping.

Q. Is it not a fact that at various times and from time to time your first quotations would be the same from a number of manufacturers, and that then you would take those as the basis and then attempt to get and did get a lower price from some one or other of them?

A. Some of them would be the same, but not very often.

Q. Take the year 1911: Do you recall the various prices at the time that you purchased your sheets for that year now?

A. No, I do not think I can.

Q. Do you recall the variation in the prices?

A. Between the independents and the——

Q. I do not speak of independents; I spoke of the people that you solicited.

A. A dollar to two dollars a ton.

Q. That is as near as you can come?

A. Yes, sir.

Q. And you cannot tell us which gave one and which gave the other, what bidder?

A. No, I could not tell you the name of the manufacturers to-day.

Q. Can you give the bids for 1911 of the various persons

whom you solicited upon any single purchase for that year?

A. I could not give you, no, sir, without referring to my records.

Q. I understood you to say in your direct examination for some years you have been purchasing sheets and tin plates; how far back does that go?

A. Tin plates I have never purchased very much of, and sheets I used to purchase a number of years, up to within the last four years.

Q. Up to within the last four years?

A. Yes, sir.

Q. And from four years back you purchased sheets?

A. Yes, sir.

Q. Within the last four years you have not?

A. No, sir.

Q. Now, take from 1901 to 1906; what percentage of what you bought in wire products, nails and wire products, did you get from the American Steel & Wire Company?

A. About 60 per cent.

Q. Now, who bought the tubes for your concern?

A. Mr. Rudd.

Q. You had nothing to do with that?

A. Not with the direct purchase of them.

Q. I mean with the negotiations for prices?

A. No, sir.

Q. And you do not know about that?

A. No, sir.

Q. You could not give any information about prices and bids?

A. I do not think I could, sir.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Were the prices of the American Steel & Wire Company publicly announced by them, or was information by card or otherwise ordinarily given to the jobbers and purchasers?

A. Yes, sir.

Q. How long has that been the practice?

A. Ten years.

Q. So that their prices in that way became public?

A. Yes; the trade papers published them too.

Q. And did the Steel & Wire Company ordinarily maintain the price so quoted until they announced a change?

A. Usually, yes, sir.

Q. Now, you spoke of one mill announcing its price and other mills following. I suppose you were speaking generally, were you, or were you speaking with respect to some particular time? I did not notice whether you said that of some one line, or whether you were speaking generally.

A. You might call it generally, but usually the largest producer usually names the price. May I illustrate now on another line?

Q. Not just now; you are speaking of a principle, and I want to ask you more about it. Do you mean the smaller ones ordinarily wait for the larger ones to announce their price?

A. Usually they do, yes, sir; that is natural.

Q. Why do you mean to say that is natural; is that so in all lines of trade?

A. I think it is, yes, sir.

Q. That you deal in?

A. Yes, sir.

Q. And apparently from your answer to Judge Dickinson you deal in many lines?

A. Yes, sir.

Q. Then when the price of the larger ones has become known the others have to follow, I suppose?

A. Yes, sir.

Q. Is that what you mean?

A. Yes, sir.

Q. Follow more or less?

A. Yes, sir.

Q. And then the bargaining begins?

A. Yes, sir. If you will let me illustrate.

Q. I will, yes. I did not mean to prevent you from doing that.

A. We sell a good deal of binder twine. You know what binder twine is?

MR. DICKINSON: Yes, I know.

MR. LINDABURY: I know what it is. The Judge deals in that. The Government, I should have said.

THE WITNESS: We frequently start selling that in October.

MR. DICKINSON: You mean where they use reapers?

THE WITNESS: Yes. We sell about 500 tons of binder twine per year. That is not very much for some people, but it is for us. We start selling it in October. We have a price on it. We buy of what are known as the independents. Our price is guaranteed against the price that is made by two of the largest makers. We either have to meet the price when their price is made or let go. We have never had to let go yet. The price, we admit, is made by the International Harvester Company or the Plymouth Manufacturing Company. You think it is the International, I know, but they do not always make it. The Plymouth made it two years ago, and they got below the International.

By MR. LINDABURY:

Q. And the International had to follow?

A. The International had to follow. I am illustrating the prices, and our independent mill took care of us so that we were able to meet that price. Last year we were about $20 a ton too low. The International made the price last year. The Plymouth followed.

Q. What you say of the practice in binder twine, I suppose, applies to steel, does it?

MR. DICKINSON: He has not said that. I object to that as being suggestive to the witness, and leading.

THE WITNESS: I think it applies to all lines of trade.

By MR. LINDABURY:

Q. That is, generally?

A. Yes, generally.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. I want to understand what he means by the last thing. Do you mean that anybody is backing you in your purchase of wire and steel products so as to enable you to meet prices that may be made by any of their competitors?

A. No, sir; only our money that we pay for it.

Q. There is a difference, then, between that and the binding illustration you gave, is there not?

A. I don't think so.

Q. Did you not say that in that case, of the binding twine, the concern that you represent protects you in the price?

A. If they see fit, they can.

Q. But you say, as a matter of fact, that they do do it?

A. They have.

Q. They have done it?

A. They have done it; but they do not have to.

Q. But they have done it?

A. Yes, sir; they have done it.

Q. Does the American Steel & Wire Company protect you in the price?

A. No, sir; they do not.

Q. Then there is a difference there, is there not?

A. There might be.

Q. Is there not?

A. I was simply telling the trend of the business; the way the business went.

Q. I wanted to know how far you went when you said the things were alike.

A. That is as far as I meant. The International Harvester Company or Plymouth make the price on binder twine every year.

Q. That is all right. That is all.

A. You might say——

Q. You had better quit now, or we might keep you on longer.

A. I have no objection.

Mr. Dickinson: That is all.

Mr. Lindabury: That is all.

GEORGE ISRAEL

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. I believe you are the secretary and treasurer of the Mount Vernon Bridge Company of Mount Vernon, Ohio?

A. Yes, sir.

Q. How long have you held that position?

A. Since April, 1910.

Q. What is the business of that company?

A. General contractors and the fabrication of steel.

Q. And I imagine they are bridge builders, from the name?

A. The fabrication of steel would cover bridge building and buildings too.

Q. They do both?

A. Yes, sir.

Q. How long has that concern been in existence?

A. Since 1897.

Q. You have been with it since what time in 1910?

A. April.

Q. Do you have anything to do with the purchase of its material?

A. Yes, sir; I buy the material.

Q. Have you done that ever since you have been with that company?

A. Yes, sir.

Q. Do you purchase on contract or from time to time as your needs require on specifications?

A. We occasionally have contracts, and sometimes take a specific protection for a job.

Q. Do you purchase on the competitive basis?

A. Yes, sir.

Q. Is it your habit to obtain quotations before making your purchase, whether by contract or on specifications?

A. We do part of the time, and part of the time we do

not. It depends upon the prices. Prices are sometimes made that are satisfactory to us without competition.

Q. What is your general rule?

A. As a general rule we secure prices from the larger mills before we close any contract.

Q. And your purchases, I suppose, consist altogether or largely of shapes and plates and bars and such like?

A. Yes, sir.

Q. From whom do you obtain quotations ordinarily?

A. From the Jones & Laughlin Steel Company, the Cambria, the United States Steel Corporation, Carnegie, Lackawanna Steel Company, Portsmouth Steel Company and the United Steel Company.

Q. From the Bethlehem at all?

A. Very seldom.

Q. You are rather beyond the range of their territory, I suppose? Mount Vernon, Ohio, is south of Columbus, I think?

A. North.

Q. Is it north of Columbus?

A. Northeast; yes, sir.

Q. It is on the road from Cleveland to Columbus?

A. It is on the road from Cleveland to Columbus, and also between Newark and Mansfield, on the Baltimore & Ohio.

Q. Do the quotations you receive ordinarily vary, or are they uniform?

A. They vary. They have varied in practically every case since I have been there.

Q. And do you ordinarily buy where you can buy the cheapest?

A. Always.

Q. I mean to say, where the price is lowest? I thought perhaps sometimes deliveries entered into it.

A. Deliveries and, of course, quality would enter into it.

Q. But ordinarily does the price govern?

A. Ordinarily, yes.

Q. Are you able to negotiate at times at better than the quoted prices?

A. Yes.

Q. Is or is not that ordinarily the case?

A. It has been since I have had experience in buying.

Q. About how large are your purchases?

A. Well, they would vary; we would average probably 15,000 tons a year.

Q. Consisting of what?

A. Plates, shapes and bars.

Q. And other material used in a fabricating shop?

A. Well, those are the principal ones.

Q. What percentage of these purchases has been made from the United States Steel Corporation? That is, from the Carnegie Company?

A. Well, it has varied from practically nothing to possibly 45 to 50 per cent.

Q. That is during the years you have been there?

A. During the years I have been there.

Q. You brought some figures, did you not?

A. Yes.

Q. I understand that you yourself made the purchases during the four years covered by your answer?

A. Yes, sir.

Q. By your testimony?

A. Yes.

Q. You examined the books of your company to ascertain the quantity of purchases made during the preceding four years and from whom they were made?

A. Yes.

Q. Have you made an abstract of the books in that respect?

A. Yes.

Q. Will you tell me the amount, as shown by your books, of purchases that you made in 1906?

MR. DICKINSON: I want to ask some questions, and I might as well do it now.

MR. LINDABURY: If you choose.

MR. DICKINSON: It will probably shorten it up a little. I would like to ask him:

By Mr. Dickinson:

Q. Who kept these books?

A. The clerks of the office, the office force.

Q. You didn't keep them?

A. No, sir.

Q. You know nothing yourself personally of their correctness?

A. I know that these figures have been checked up to ascertain their correctness.

Q. That is to say, these figures have been checked by the books?

A. Yes.

Q. But you did not keep the books?

A. No, sir.

Q. And you know nothing about their correctness?

A. I know that they are approximately correct, because I bought the steel that enters into these figures.

Q. What year was that?

A. This will, of course, apply in 1910 and from 1910 on.

Q. I understand that this goes back of 1910.

A. There are figures back of 1910.

Q. Do you know anything about that of your own knowledge?

A. I have knowledge of the fact that the figures have been checked by two different people to ascertain their correctness.

Q. That is, they appeared on the books?

A. Yes.

Q. And those things correspond with the books?

A. Yes.

Q. But you had nothing to do with the transactions back of 1910 yourself?

A. No, sir.

Q. And you did not keep the books?

A. No, sir.

Mr. Dickinson: I object to any testimony from the books back of 1910.

Mr. Lindabury: I will put the evidence in by itself so that you will be able to renew your objection, if you choose, when it is all in, and I will separate it so as to make it clear.

By Mr. Lindabury:

Q. You know the figures that you have on the statement correspond with the book account of your purchases, as I understand you?

A. Yes.

Q. And of course not being there, you neither made the purchases nor the book entries?

A. No, sir.

Q. I will ask you now to give the quantity of your purchases of steel for the years 1906, 1907, 1908 and 1909, and the names of the companies from whom the purchases were made, and the amount from each company as shown by your company's books.

Mr. Dickinson: This is objected to as secondary evidence, because the witness has no knowledge and only speaks from a transcript from the books, of the correctness of which he knows nothing.

Mr. Lindabury: Now you may answer.

The Witness: Do you want me to give the totals?

Mr. Lindabury: Yes; I think you had better take it by the years.

The Witness: In 1906, the total purchases were 4,833 tons. The Carnegie received 188 tons; Cambria Steel, 2,042 tons; Jones & Laughlin Steel Company, 903 tons; the Lackawanna Steel Company, 484 tons; United Steel Company, 11 tons; J. F. Corlett & Company, 1,057 tons; Phoenix Iron Company, 4 tons; the Crucible Steel Company, 126 tons; Bourne, Fuller & Company, 13 tons; Carbon Steel Company, 5 tons.

By Mr. Lindabury:

Q. Now answer in the same way as to 1907.

A. 1907. 4,394 tons total purchases; Carnegie, 26; Cambria, 1,987; Jones & Laughlin, 735; Lackawanna Steel Company, 440; United Steel Company, 362; Corlett & Company, 814; Bourne, Fuller & Company, 7; Lockhart Iron & Steel Company, 23.

In 1908, total tonnage, 5,610 tons; Carnegie, 1,780; Cambria, 1,547; Jones & Laughlin, 246; Lackawanna Steel Com-

pany, 1,149; United Steel Company, 333; Corlett & Company, 555.

In 1909, total purchases, 11,054 tons; Carnegie 24; Cambria, 3,076; Jones & Laughlin, 106; Lackawanna, 6,889; United Steel Company, 855; Corlett & Company, 57; Portsmouth Steel Company, 15; Bethelehem Steel Company, 32.

Q. Are you able without refreshing your recollection to give the tonnage for the four subsequent years when you yourself made the purchases?

MR. DICKINSON: It is not for four years.

MR. LINDABURY: From April down; I do not know when it commenced.

THE WITNESS: This all runs January to January compilation.

MR. LINDABURY: You do not mean to object to that, do you, Judge?

MR. DICKINSON: No, I cannot object to it.

By MR. LINDABURY:

Q. The actual tonnages?

A. I could not give you the actual tonnages; no, sir.

Q. Are you able to refresh your recollection with this paper that you have produced?

A. Yes, sir.

Q. So as to be able to testify?

A. Yes, sir.

Q. Very well. Now, tell us, according to your recollection, as refreshed by that paper, what the purchases for 1910 were.

MR. DICKINSON: This is objected to because the witness has shown that he had no previous personal knowledge back of April, 1910, and these figures are for the entire year 1910.

By MR. LINDABURY:

Q. Were the purchases made in the first three months of 1910 all delivered during that time, or before you went there?

A. They were purchases made before I went there.

Q. You mean commitments made, but were the goods delivered, do you know?

A. You mean were the goods that I show as purchased prior to my going there, were they——

Q. No, in that year there were three months of that year when I take it from your answers you did not yourself make the purchases?

A. I did not.

Q. Very well. Now, do you know anything about when those deliveries were made; afterwards, or in any other way?

A. I know that they show on the books that they were delivered.

Q. Very well; that is all you know about it?

A. Yes, sir.

Q. Do you happen to remember whether the deliveries were to any considerable extent held over after you arrived there, or don't you recall?

A. The deliveries? There was not very much steel delivered on purchases made before I arrived there, after I came there.

Q. You mean the deliveries had mostly been made?

A. They had largely been made.

Q. Very well. Now, then, using that statement to refresh your recollection, if it does refresh your recollection, are you able to state approximately the amount of steel purchased during the nine months of 1910 when you were in the service of the company? You may use that and see what you can make out of it. Do not answer that question yet. Let me withdraw it and put another. I wish you would give me the amount of purchases as shown by the books for the year 1910.

A. Total purchases, 5,428 tons.

MR. LINDABURY: Do you want to object to it, Judge?

MR. DICKINSON: I have already objected to it.

MR. LINDABURY: It is understood the Judge's objections to former questions apply.

THE WITNESS: Carnegie Steel Company, 563 tons; Cambria Steel Company, 3,661 tons; Jones & Laughlin, 928 tons; Lackawanna, 2 tons; United Steel Company, 233 tons; Portsmouth Steel Company, 41 tons.

By MR. LINDABURY:

Q. Tell me what percentage of the total purchases for that year was made by you approximately.

A. I should say 65 per cent.

Q. Have you any recollection as to how that was distributed?

A. The larger portion of it, in my recollection, went to the Cambria Steel Company.

Q. Now, take 1911, and tell me from recollection, refreshed, if necessary, by your memorandum, as to the total of your purchases and the distribution.

MR. DICKINSON: I object to the witness using the memorandum, not having stated that he has any recollection about the matter at all, and it is incompetent for him to use the memorandum to refresh his recollection unless he can say that he has a recollection after looking at the memorandum, and without relying on the memorandum.

MR. LINDABURY: I think, Judge, you misunderstood his evidence. He answered no to a question I asked him, which was as to whether or not, independent of the memorandum, he could recollect and give the exact figures, but he has not said that he has no recollection independent of the figures because he answered categorically the question. I don't know what the fact is.

MR. DICKINSON: You might as well let the objection stand, then.

By MR. LINDABURY:

Q. Do you have any recollection of the matter?

A. For the year 1911?

Q. Yes.

A. As to the total tonnage?

Q. Yes. I do not mean the exact total, but have you any recollection as to about what it was?

A. Yes, sir. My recollection is that it would be somewhere about 12,000 tons.

Q. You recollect that independent of the paper?

A. Yes, sir.

Q. Now, refreshing your recollection by the paper, is it changed at all?

A. It is 12,916 tons.

Q. So the 916 tons was what you did not recall?

Mr. Dickinson: He does not say he recalls it now.

Mr. Lindabury: Do not let us take any more time on that.

By Mr. Lindabury:

Q. Now, tell me about how it was distributed.

A. Carnegie Steel Company, 6,454 tons; Cambria Steel Company, 1,749 tons; Jones & Laughlin Steel Company, 4,263 tons; United Steel Company, 274 tons; Corlett & Company, 3 tons; Portsmouth Steel Company, 173 tons.

Q. What were your purchases for 1912?

A. 22,247 tons.

Q. That is a great increase. Did you have some especially large contracts?

A. No, sir; we had especially advantageous prices.

Q. Do you mean you bought beyond your immediate needs by reason of market conditions?

A. Yes, sir.

Q. And what were your purchases?

A. 22,247.

Q. Nearly twice as much as you purchased any other year, was it not? Your highest preceding purchase was 12,916?

A. Yes.

Q. From whom did you make those purchases?

A. We made those largely from Jones & Laughlin and Cambria.

Q. I mean the whole thing. Just give it as before—the distribution?

A. Carnegie Steel Company,	2,833
Cambria Steel Company,	5,843
Jones & Laughlin Steel Company,	12,680
United Steel Company,	718
Corlett & Company,	6
Portsmouth Steel Company,	54
Bethlehem Steel Company,	40
Carbon Steel Company,	26
Joseph T. Ryerson & Son,	47

Q. Have you the purchases for 1913 down to any given date?

A. Yes, sir. They include all purchases that we have made up to date.

Q. Up to to-day?

A. Yes, sir; up to this day.

Q. When did you get this memorandum up?

A. We got this memorandum up on Friday and Saturday. There have been no purchases made since then.

Q. That is what I would call being up to date, surely. What have the purchases for 1913 amounted to, and how were they distributed?

MR. DICKINSON: The same objection.

THE WITNESS: 6,835 tons:

Carnegie Steel Company,	1,360
Cambria Steel Company,	298
Jones & Laughlin,	5,000
United Steel Company,	15
Portsmouth Steel Company,	36
Bethlehem Steel Company,	70
Phoenix Iron Company,	21
Bourne, Fuller & Company,	13
Joseph T. Ryerson & Son,	22

By MR. LINDABURY:

Q. Were all of those purchases during the time you have been making them, made on the competitive basis you have testified to earlier in your examination?

A. Yes, sir.

Q. And generally placed according to price, as I understand?

A. Largely according to price, yes, sir.

Q. What was your business before you went with the Mt. Vernon Bridge Company?

A. I was salesman for the Jones & Laughlin Steel Company.

Q. For how long a time?

A. From November, 1904.

MR. DICKINSON: To April, 1910?

THE WITNESS: Yes, sir.

By Mr. Lindabury:

Q. In what territory did you operate?

A. From November, 1904, to May, 1908, I traveled from the Chicago office, covering what was known as the northwestern territory.

Q. From 1908 to the time you went with the Mt. Vernon Bridge Company where were you located?

A. I was located in the Cleveland office of the Jones & Laughlin Steel Company.

Q. While in Chicago did you sell any particular line of products, or all of the products of the Jones & Laughlin Company?

A. I sold all of them.

Q. How was it in Cleveland?

A. The same thing.

Q. Was there or not competition in the sale of the products you were offering in the territory in which you operated when your headquarters were in Chicago?

A. Yes, sir.

Q. Was that active or not?

A. I should consider it active.

Q. And how was it at Cleveland?

A. Active.

Q. When you went to Cleveland was the trade of Jones & Laughlin considerable or was it light?

A. It was light.

Q. Was it increased during the two years you were there?

A. Yes, sir.

Q. Materially?

A. Yes, sir.

Q. We will speak of Cleveland first, as that involves a shorter period and the day is waning. How was your trade extended whilst you were in Cleveland?

A. How was it extended?

Q. Yes, how was your trade extended; how was it increased?

A. It was increased by hard work.

Q. Carried on in what manner—by personal solicitation, I mean?

A. Yes, sir.

Q. Were the prices quoted by you and your competing salesmen the same or variant?

A. They were sometimes the same and sometimes variant.

Q. When were they variant?

A. Whenever the mills were in need of business they naturally were more inclined to vary their prices, and go to greater lengths to secure business.

Q. Did the variation have anything to do with your desire to get the customer?

A. Did the variation—I do not quite understand your question.

Q. Did the variation in quotations have anything to do with your desire to get the business?

A. I don't believe I understand you.

Q. Did you ever vary the price quoted for the purpose of getting the business?

A. Yes, sir.

Q. Did you canvass the trade of your competitors?

A. Yes, sir.

Q. Did you get their customers sometimes?

A. Yes, sir.

Q. How?

A. Sometimes by price, sometimes by delivery, sometimes by personal friendship and sometimes by keeping eternally after it until, perhaps, they gave us something to get rid of us.

Q. Did you leave undone any method of getting the business that you had learned?

A. None that I ever knew of.

Q. Did the salesmen of the competing concerns get your customers sometimes?

A. Yes, sir.

Q. And by what methods? Somewhat the same?

A. As far as I know, they were. I would not have much idea how they did get them away from me.

Q. Not generally so fair as yours, I suppose?

A. I thought not at the time.

Q. But they got them, did they?

A. Yes.

Q. So it was give and take?

A. Yes, sir.

Q. And did that obtain during the whole two years you were there?

A. Yes, sir.

Q. And in all the lines of products that you were selling?

A. Yes, sir.

Q. And I suppose you sold one product to one line of customers and another product to another line of customers?

A. Yes, sir.

Q. And throughout the trade did the same practice obtain?

A. So far as I know.

Q. Was there any such thing as refraining, on the part of any of you, from soliciting the trade of some rival?

A. No.

Q. You didn't ever stop at that?

A. No.

Q. You got all you could?

A. Yes.

Q. And by all the means you could that were fair?

A. That were fair.

Q. And by fair I mean honorable?

A. Yes.

(Whereupon an adjournment was taken until to-morrow, Tuesday, November 18, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND THIRTEENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, November 18, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY and MR. REED.

GEORGE ISRAEL,

the witness under examination at the taking of adjournment, resumed the stand for further examination.

DIRECT EXAMINATION (Continued)

By MR. LINDABURY:

Q. Mr. Israel, you stated that you were four years in Chicago as salesman for Jones & Laughlin? Am I right?

A. I was there from November of 1904 until May of 1908.

Q. Did you state the area of your travels or in which you made sales for Jones & Laughlin while at Chicago?

A. I did not; no, sir.

Q. Will you do it?

A. I had northern Illinois, part of Wisconsin, Minnesota, Omaha part of the time, and made a few trips into the copper country.

Q. That is, northern Michigan you mean?

A. Yes, sir.

Q. And did you sell in that territory,—that is, the territory that you have described generally—all the products of Jones & Laughlin?

A. Yes, sir.

Q. Was there competition in the sale of such products within that territory during the time you represented them in Chicago?

A. Yes, sir.

Q. Was it strong and active or weak and dormant?

A. Just as strong as we could make it.

Q. When you speak of "we" you are speaking of Jones & Laughlin?

A. Yes, sir.

Q. What about their competitors. Did they show activity or strength?

A. Yes, sir.

Q. Did the competition that you speak of extend to prices?

A. At times.

Q. What were the times when it extended particularly to prices?

A. It extended to prices when the mills wanted the business.

Q. Is it true, speaking generally, that competition is keener when business is dull and the mills are running light than during boom times when they are all filled up with orders?

A. Yes, sir.

Q. How is that? What is the difference in the character of the competition?

A. There were times when we were so full of orders that we could not make any reasonable deliveries, and we naturally did not attempt to pull our friends into further orders when we could not satisfy them as to what they wanted.

Q. Did that condition affect price quotations?

A. It affected them to the extent that we would make no effort, of course, to get business on prices if we did not want it.

Q. So that there is less variation, is there, in quotations in boom times than in slack times between different manufacturers?

A. Generally speaking there would be. Of course boom times do not affect all the mills in the same way.

Q. Oh, I see.

A. And there are mills that fill up more rapidly than others, and that are perhaps more interested in business. We might say A was full of business and could not deliver for six months, and did not look for it, naturally. B, not being so fortunate, would be fighting harder for business.

Q. Then was there a difference in the competition of different mills at different times, owing to their condition?

A. Yes, sir.

Q. What was the practice or duty of salesmen when prices were ascending; were prices being cut then, or was some other course pursued?

A. Naturally, if we did not want business we got all the money out of what we got that we could,—if that answers it; if that is what you mean.

Q. That was your practice, wasn't it?

A. Yes, sir.

Q. Was it that of your competitors so far as you were able to observe at that time?

A. It was.

Q. With regard to the keeness of competition: Do you remember any particular instances of it during that period when you were in Chicago?

A. I remember very distinctly attempting to secure an order for a miscellaneous lot of material, and I had instructions to cut the price on one of the commodities, in an effort to get the balance of the order, and was informed——

MR. DICKINSON: Let me make an objection there. This particular transaction is objected to as irrelevant, and any information given dependent upon the statements of others is objected to as being hearsay and incompetent.

THE WITNESS: I was told in the evening of a certain day that it had been decided to divide the order between two of the mills. The next morning, when I went down with the hope of getting the order, I was informed that the other man had beaten me to it with a further cut on some item, which had secured for him the total order; and he had gone on his way.

By Mr. Lindabury:

Q. What year was that?

A. I can not place the year exactly. It would be—no, I could not place it any closer than simply perhaps 1906. That is as near as I can fix it.

Q. Did you have considerable trade in Minneapolis?

A. Yes.

Q. In what product or products?

A. We sold plates, shapes and bars, and cold rolled shafting.

Q. Did your competitors succeed in getting any of that away from you at any time?

A. Yes.

Q. Who?

A. Well, the times were so numerous it would be hard to answer.

Mr. Dickinson: That is objected to as irrelevant.

The Witness: Except that we lost what we considered a very satisfactory bar business there at that time.

By Mr. Lindabury:

Q. To whom did you lose that?

A. The Wisconsin Steel Company.

Q. How did that come about?

A. That came about through the fact that they cut prices.

Q. Tell us about it.

Mr. Dickinson: That is objected to as irrelevant.

The Witness: My friends had advised me that they would be unable to continue to give us business unless we were eager enough for the business to make better prices, and it was not the opinion of Jones & Laughlin that they cared to do so at the time, and our competitors took the business.

Q. How much did they reduce the price?

A. It is my recollection that it was two dollars a ton.

Q. How much business did they get by doing that?

A. They took the majority of the business that was going at that time in the Twin Cities; that is, St. Paul, Minneapolis, and Duluth; they took the majority of the bar business that there was at that time.

Q. During what period of time did they take it?

A. They took that on the basis of contracts.

Q. I see; but how long were they doing it? Within what period did they get that business? How long did that campaign last, if you know?

A. My recollection is that it was nine days.

Q. How many customers did you lose through that operation?

Mr. Dickinson: That is objected to as irrelevant.

By Mr. Lindabury:

Q. (Continuing): Roughly; we haven't time for close figuring.

A. I think there were five.

Q. Did they get other customers besides those, new customers, I mean?

A. I so understood.

Q. Was there any time during that period when you were stationed in Chicago that competition in the various products you were selling was not correspondingly active?

A. As I said before, if we did not want the business, we did not fight for it.

Q. I am not now speaking of your own trade alone, but the conditions generally, as you observed them. Was there competition, including the making of varying and better and different prices all along the line during that period?

A. Yes, I would say that there was.

Q. Did the business of Jones & Laughlin increase in the territory that you canvassed during the years that you represented them in Chicago?

A. It was my understanding from the office that it did.

Q. You were not in a position to know from your own experience whether it was growing or not?

A. All the indications and all the information that I had during my connection there were that I increased the business.

Q. But you did not have such an account of it that you were able to tell from the figures?

A. No.

Q. When did your concern start, your present concern?

A. The first work was done in 1898.

Q. And was it started by your father?

A. Yes, sir; by my father and one other man.

Q. Do you remember what its capital was then, whether it was large or small?

A. The capital was $60,000.

Q. What is it now?

A. $300,000 common and $48,000 preferred.

Q. And has new capital been put in or has the increase been from profit?

A. The increase has been from profits.

MR. LINDABURY: Cross examine.

CROSS EXAMINATION.

By MR. DICKINSON:

Q. You stated that the Mt. Vernon Bridge Company builds buildings?

A. Yes, sir.

Q. What class of buildings?

A. We build factory buildings as a rule, and seldom make any effort to get the large high buildings.

Q. One story buildings mainly, is it?

A. Yes; that would be the large portion of it.

Q. You are not in the market for large structural high buildings?

A. We never build any high buildings.

Q. Now, in regard to the purchases of the material that you use, I mean your steel material, you stated that some of it you purchased by contract and some without contract?

A. Some by contract and some by what is termed specific protection for one particular job.

Q. Now, take the year 1910. You began with it in April, 1910; the latter part of that year what proportion of your purchases in steel were by contract, and what proportion of the purchases were not by contract. I mean by contract running over a period for delivery?

A. I could not answer that.

Q. Take the year 1911, can you answer for that year?

A. I should say that probably fifty per cent. was on contract and fifty per cent. on specific protections.

Q. That is an estimate merely, is it?

A. Yes, sir.

Q. You have no recollection of the figures?

A. That is very close.

Q. Take the next year, 1912.

A. 1912, I should say ninety per cent. of the tonnage bought was bought on contract.

Q. On contract?

A. Yes, sir.

Q. Have you that memorandum which you had there?

A. Yes, sir.

Q. Let me have it, will you?

A. Yes, sir (handing paper to Judge Dickinson).

Q. What were your total purchases for 1912?

A. Between twenty-two and twenty-three thousand tons.

Q. And you say about 90 per cent. of that was on contract?

A. That would be my estimate without going into it exactly.

Q. Were those written contracts?

A. Yes, sir.

Q. For what period of time did they run?

A. Generally for six months.

Q. From whom did you buy the larger part during that year?

A. From Jones & Laughlin.

Q. And how much of that was on contract?

A. All of it.

Q. How many contracts covered that?

A. It is my recollection that we made three contracts with Jones & Laughlin during the year 1912.

Q. Just give the dates when you made these three contracts, will you?

A. I could not do that.

Q. Give them as near as you can.

A. That would be impossible. I do not have any recollection of the times that we made them.

Q. Can't you tell whether they were in the first half or the first quarter of the year?

A. I would not care to say, because I have no recollection on the subject.

Q. Well, do you know the proportion of the whole amount that you got from Jones & Laughlin that was covered by these three several contracts?

A. No, sir.

Q. Do you know the prices that you paid under each of these contracts?

A. I know that we bought during the—I can not say positively whether the lowest price was made in the latter part of 1911 or the early part of 1912, but we made contracts as low as $1.15.

Q. You do not know whether that was in 1912 or in 1911?

A. I could not say positively just when it was made; no, sir.

Q. What kind of material was that, plain structural?

A. Yes, sir.

Q. $1.15?

A. Yes, sir.

Q. But you can not give the year?

A. No, sir.

Q. Now, then, take these three contracts with Jones & Laughlin for 1912. You can not, as I understand you, then, give the prices at which you purchased under either one of these contracts, nor give the period of the year in which you made either of the contracts, or the amount covered by each?

A. We made contracts with Jones & Laughlin at prices ranging from $1.15 to $1.30.

Q. In what year?

A. As I say, I am not sure whether it was the latter part of 1911 that that lowest price was made, or whether it was in 1912. Then it went up until—the next contract we made was on the basis of $1.45.

Q. And you do not know when that was made?

A. That was made, as I remember it, in May, 1913.

Q. May of 1913?

A. Yes, sir.

Q. Now, I am getting back to the three contracts which you said you made in 1912; you said that, didn't you?

A. I said that I thought we made three contracts.

Q. You thought so?

A. Yes, sir.

Q. That is the best of your recollection, is it?

A. Yes, sir.

Q. That you did?

A. Yes, sir.

Q. But you can not give the period of time or the amount covered or the price for either one of those contracts?

A. My recollection, as near as I can give it, is as I told you; the lowest was $1.15 and the highest $1.30.

Q. But you could not tell whether it was 1912 or not?

A. I said I could not. I know that if there was a contract made in 1911 it would only be one of those three that I have mentioned, and it would be near the end of the year.

Q. I am not asking you about 1911; I will probably get to that later. The first contract that you made in 1912 with Jones & Laughlin, the time of it and the amount covered by it and the price you are unable to specify. State on each of those particular contracts from whom you took the bids and what the bids were?

A. We took them from the Cambria Steel Company, from the United States Steel Corporation, and we would buy on account of the geographical location from the Carnegie.

Q. The Cambria and Carnegie?

A. And Jones & Laughlin.

Q. Do you state as a fact that on each of those contracts made in 1912 you did take bids on the material which was covered by the contracts which you made with Jones & Laughlin from the Cambria, the Carnegie and the Lackawanna?

A. And Jones & Laughlin, I said.

Q. Of course. You let it to Jones & Laughlin, did you not?

A. Yes.

Q. Do you state as a fact that on each one of those con-

tracts for 1912 you positively remember that you took bids from each of those concerns?

A. There may have been one contract that we did not submit to the Lackawanna, for the reason that they said they were so loaded up with business when we had taken it up with them before that they did not care to consider any business.

Q. But you do not know which one that was?

A. No, sir.

Q. Nor what period of the year that was?

A. No, sir; I do not.

Q. Are you positive that on all three of those contracts you took bids from the Cambria and Carnegie?

A. Yes, sir.

Q. What were the bids of the Cambria and Carnegie, respectively, on each one of those contracts?

A. The Carnegie Steel Company's price was higher than either Jones & Laughlin or the Cambria price.

Q. Do you know what it was?

A. I could not state definitely. It would run from one dollar to three dollars a ton higher.

Q. Do you know what the Cambria bid was on either one of those contracts?

A. The Cambria's price was identical with that of Jones & Laughlin, with the exception of the last contract which we made, when they were not in a position to quote, because they could not make any shipments.

Q. Then they did not bid on that one?

A. Not on the last one; no, sir.

Q. The Cambria only bid on two, then? Is that a fact?

A. I think that is a fact.

Q. And Lackawanna only bid on two?

A. I think so.

Q. But Carnegie bid on three?

A. Yes, sir.

Q. On two of these occasions on which the Cambria bid, the Cambria and Jones & Laughlin were identically the same in their bids, were they?

A. Yes, sir.

Q. Now, as to these occasions where you did not make written contracts, but just made a purchase for your requirements for a special instance: How did you proceed about that?

A. Well, I would naturally take it up with the mill that I thought could give us the best delivery and could handle the particular job in the best way.

Q. With that mill?

A. Yes, sir.

Q. Then, in that matter there was no competition, was there?

A. Very often not; and very often there was.

Q. But you can not give the proportion of when there was and when there was not competition?

A. No, sir.

Q. In speaking of the quotations you received, and speaking generally throughout this period of time covered by your testimony, which is from April, 1910, down to the present time, is it not a fact, Mr. Israel, that frequently you would receive from various manufacturers, on their first bid at least, the same price—at least from a number of them?

A. I should say that it was not a fact.

Q. Do you say, as a matter of fact, that in this period from April 1, 1910, down to the present time, none of the large manufacturers from whom you solicited quotations quoted you identically the same price?

A. I did not say that. I said that I should think it was not a fact that they quoted the same always.

Q. I did not intend to put it in that way, and now I will put it this way: Is it not a fact that while not all, yet some of the manufacturers, on particular bids, upon their first bids, quoted you identically the same price?

A. That has been a fact; yes, sir.

Q. Did not that occur frequently?

A. No, sir.

Q. Can you give the times on any of these when it did not occur, where you state that you positively recollect?

A. The greater part of the time during 1912 we received

better prices from Cambria and Jones & Laughlin than we did from the Corporation, and I think, as I recollect it, that there was no time in 1912—there may have been once—that the prices were identical. Any other times that we submitted any item for quotation I think there was only once in the year that we had any duplication of bids.

Q. Then these occasions where you said there were identical bids submitted, were back of 1912?

A. I think I remember one instance in 1912 where there were two bids the same, and that is the only one that I remember now.

Q. In 1912?

A. Yes.

Q. But these other instances that you refer to were back of 1912, were they?

Mr. Lindabury: I object. I do not think the witness referred to any instance.

By Mr. Dickinson:

Q. Did you not say that it occurred when you solicited bids that more than one of the bidders in the first bid gave you identically the same price?

A. I said that that had occurred.

Q. Now, I am trying to get you to say when it occurred. I understood you to say it had not occurred in 1912, except in probably one instance?

A. That is my recollection.

Q. Now, then, did it occur before 1912?

A. In 1911 I think there was about the same variance in the bids as there was in 1912.

Q. When did these identical bids that you said were made occur?

A. That I could not answer, as to the date.

Q. They occurred some time between April, 1910, and the present time, did they?

A. Some time between April, 1910, and the present time there have been identical bids made; yes, sir.

Q. Can you not locate what year they were?

A. No, sir.

Q. Has it been in 1913?

A. No, sir. As I recollect it, there have not been any identical bids in 1913.

Q. You do not recollect any in 1913, only one in 1912, and you began to do business in April, 1910?

A. Yes, sir.

Q. So, somewhere in the period from April, 1910, to the present time these identical bids did occur?

A. I said that there had been times when they occurred; yes, sir.

Q. And that is as nearly as you can locate the time, is it?

A. Yes, sir.

Q. Now, you spoke of "quoted prices," and the question was asked you:

"Are you able to negotiate at times at better than the quoted prices"?

And you answered yes. What do you mean by quoted prices?

A. Well, the prices that are advertised in the trade papers.

Q. And at times you say you could negotiate at better prices than those?

A. Yes.

Q. Now, whose prices did you understand those quoted prices to be?

A. I never have known whose they were.

Q. Do you not know that they were the prices at Pittsburgh, from the Pittsburgh mills?

A. I know that the trade papers in their issues say that "We quote today so-and-so," but I would have no means of knowing whose those prices were.

Q. And from those prices so quoted, you say at times you could get better prices?

A. Practically all of the time we have.,

Q. State what contract in 1910 you negotiated, and with whom you negotiated it, that you got at less than the quoted prices?

A. I could not give you anything but a recollection on that.

Q. If you recollect, of course recollection is as good as we want.

A. This is only from memory; I could not make a positive statement, but it is my recollection that we received lower prices on material bought in 1910 from the Corporation than we did from Jones & Laughlin.

Q. My question was to state what purchase you made in 1910, and from whom you made it, for which the price was lower that the quoted prices?

A. That is as near as I could answer that, to tell you that it is my recollection that the lower prices that we received in 1910 were made by the Corporation.

Q. Your recollection is that in 1910 you bought from the Carnegie Company at prices lower than the quoted prices?

A. That is my recollection.

Q. But you cannot refer to any particular contract or purchase?

A. No, sir.

Q. Is your recollection definite on that, or pretty vague?

A. It would be hard to place that as to just when we did it, because I never made any effort to remember it at all. It would be in 1910 or early in 1911.

Q. In 1910 how much did you buy from the Carnegie Company?

A. In 1910, I do not remember what we did buy from the Corporation. I think it was very small.

Q. What would you call very small? I would like you to define that?

A. Six or seven hundred tons.

Q. To the best of your recollection in 1910 you bought from the Carnegie Company six or seven hundred tons?

A. I said that my recollection was that we bought a very small amount, and you asked me what I would call a small amount, and I said I would place a small amount at six or seven hundred tons.

Q. Then according to your recollection the amount you bought from Carnegie in 1910 was not exceeding seven hundred tons?

A. I didn't say that.

MR. LINDABURY: No, he didn't say that; he was giving definitions.

By Mr. Dickinson:

Q. I will ask you this way: According to what you remember, how much did your company buy from the Carnegie Company in 1910, in tonnage?

A. I would not have any recollection of the tonnage, the exact tonnage.

Q. Have you got any recollection of any figures for that year, respecting your purchases from the Carnegie Company?

A. The Carnegie Company, no.

Q. Take the year 1911: Have you any recollection with regard to the figures in respect to the tonnage that you bought that year from the Carnegie Company?

A. It would be my recollection that we gave them somewhere near 50 per cent.

Q. Your recollection is, then, that for that year you gave the Carnegie Company 50 per cent. of your business?

A. Somewhere near fifty per cent.

Q. Do you have any recollection of that, independent of this table?

A. It is my recollection that about that amount of business was bought from them, yes. That is, I mean by that that we bought a greater proportion from them than from any other mill in that year.

Q. And you recall that now, so far as your memory serves you, as a fact?

A. Yes; that is my recollection.

Q. And you think you have a memory to that effect?

A. I think I have.

Q. Take the year 1912: What tonnage did you buy from the Carnegie Company?

A. I should say that the Carnegie Company got less than 25 per cent., but I am not positive on that.

Q. Less than 25 per cent. of what amount?

A. Of our total purchases.

Q. And what was that?

A. Somewhere between 22,000 and 23,000 tons.

Q. Now, take the year 1913, how much did you buy from the Carnegie Company?

A. Well, I hardly think I can give you an estimate, but it

cannot be over—I do not really feel competent to give you an estimate as to the amount.

Q. You refreshed your recollection, did you not, by looking at this paper?

A. When?

Q. Here, yesterday?

A. I looked at it yesterday, yes.

Q. After refreshing your recollection, tell me what you remember now as to being the tonnage that you bought from the Carnegie Company in 1913?

A. I do not think I can give you any definite recollection of that.

Q. You have no recollection of that independent of this paper, have you?

A. Oh, I have a recollection in a general way.

Q. Now, give it to me in a general way, then; what was it?

A. I should say that we bought a large porportion of it from Jones & Laughlin, a very small proportion from Cambria, and the Carnegie had in between the proportion of Cambria and J. & L.; that is as near as I can give it.

Q. You cannot state whether it was five hundred tons or a thousand or two thousand or three thousand from Carnegie?

A. Well, I can say that it is more than 500 tons, but I do not think—I know it is less than 3,000.

Q. That is as near as you can come to that?

A. Yes.

Q. And that is all your memory serves you as to what you got from the Carnegie in 1913?

A. As to actual figures, yes.

Q. As a matter of fact, you did not make up these figures, did you?

A. No, sir.

Q. They were made up under your direction?

A. Yes.

Q. And by clerks?

A. By my chief clerk.

Q. When did they first come into your possession?

A. On Saturday.

Q. You brought them here?

A. Yes.

Q. You made no verification of them?

A. I had another clerk verify the first man's figures.

Q. But you, yourself, personally did not make any verification?

A. Personally, no.

Q. And all your recollection about it is that it was done by these clerks?

A. Yes.

Q. And you have no recollection independent of these figures, have you, as to anything approximating the exact amount?

A. I have never attempted to have any, no, sir.

Q. And you do not have?

A. I have in a general way; I do not attempt to carry figures.

Mr. Dickinson: We object to all of the testimony as to figures based upon this table because the witness shows that they were made up by others and that he has not himself verified them, and does not know as to their accuracy of his own knowledge.

Mr. Lindabury: Judge, this is not a suit on a book account.

Mr. Dickinson: Well, I did not say it was.

Mr. Lindabury: Your objection would indicate you thought it was.

Mr. Dickinson: No, I did not think it would.

By Mr. Dickinson:

Q. What did you say to the best of your recollection you bought in 1910 from the Carnegie in tonnage?

A. I did not say.

Q. Well, what was it?

A. I did not say.

Q. What recollection have you about it?

A. I said my recollection was we bought a small amount from them.

Q. But you can not give the approximate amount from them?

A. No, sir.

Q. Was that the year you got the cheap prices?

A. I said we got cheap prices from the Corporation either in the latter part of 1910 or early in 1911.

Q. Well, I may have asked you, but I do not recollect. Did you say what your recollection was as to the amount you bought from Carnegie in 1911?

A. I said I thought we bought about 50 per cent. in 1911.

Q. Was that the year you got the cheap prices?

A. I said that I could not recollect whether they were in the latter part of 1910 or early in 1911.

Q. The year that you got 50 per cent., was that the year that you got the cheap prices from Carnegie?

A. Yes, sir.

Q. You do not know of your own knowledge that the figures that you have on this statement correspond with the book account of your purchase?

A. Not of my own knowledge; no, sir.

Q. When you were selling for Jones & Laughlin you did not know always the prices that your competitors were quoting?

A. Not always.

Q. You did not see the quotations?

A. I have, in some instances.

Q. Generally not, did you?

A. Generally not.

Q. And whatever information you may have had about them would be derived from the people that you were trying to sell to?

A. Yes, sir.

Q. And outside of that you have no information as to what prices they were quoting?

A. No more than in a general way.

Q. You did not tell your competitors what prices you were quoting?

A. No, sir.

Q. And they did not tell you what prices they were quoting?

A. No, sir.

Q. You kept dark on that on both sides?

A. Yes, sir.

Q. And it was a game of finesse, wasn't it, and of judgment, largely?

A. It was a game of getting in last if you could.

Q But you would not always know whether you were getting under a real or fictitious price, would you?

A. I generally thought I had a pretty good idea as to what the rest of them were doing. I did not make any wild prices either way.

Q. In making prices they were always given from headquarters, weren't they?

A. Yes, they were always given——

Q. You had no control over the prices?

A. Except in instances where I was allowed leeway between certain figures.

Q. But that would be a special matter, would it?

A. That would be a matter on which I had asked for the privilege.

Q. But generally you would get your instructions as to prices, and they were fixed at headquarters?

A. Yes.

Q. And you had nothing to do with the fixing of prices?

A. No, sir.

Q. And you do not know the basis on which they were fixed?

A. No, sir.

Q. What products of Jones & Laughlin did you sell in the territory of northern Illinois, part of Wisconsin, Minnesota, Omaha and northern Michigan?

A. Everything that they manufactured.

Q. State what they were manufacturing. You say you sold all kinds of their output.

A. They manufactured plates, shapes, bars, chain, spikes, small rails, power transmission.

Q. Structural material?

A. Structural material is covered by plates and shapes.

Q. Did you mention plates?

A. Yes, I mentioned plates.

Q. They were not making wire then?

A. Not at that time; no, sir.

Q. All these things you have mentioned you sold in that territory?

A. Yes, sir.

Q. And you say you made the competition sharp?

A. I did the best I could.

Q. And increased the business?

A. Yes, sir.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Israel, speaking of the bids your present company has received from time to time from the different steel manufacturers, you stated that on occasions some bids were identical. I wish to ask you whether or not on those occasions the identity extended beyond the bids of two concerns; that is, whether more than two bids were identical at any time?

A. Not that I recollect.

Q. And did this identity occur more than one time between the same two concerns, or were the subsequent identical bids between a different two or between one of the others and some new or different concern?

A. My recollection is that it occurred twice from two mills, from the same identical mills.

Q. Did that identity of price extend beyond a single item that you specified?

A. I think it covered the items we were asking for in both cases; that it covered all.

Q. All the items?

A. Yes.

Q. You do not remember how many there were?

A. There would be bars, shapes and plates.

Q. Are they generally sold at prices having some relation to each other; that is, when one goes up or down do the others ordinarily in the market follow?

A. Ordinarily. There have been exceptions, however.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. You say you only remember two of such instances. Do you remember those positively?

A. Yes, sir.

Q. Do you undertake to say, as a matter of fact, that you know that there were no other instances?

A. I said that to the best of my recollection those were the only two.

Q. Do you carry in your mind now the various bids for all of these contracts that were let in 1910, and who made them, and what each bid was? Does your mind run over that, and can you reproduce it? If so, just give it to us.

A. I could not give you the exact figures. I have a recollection that there were two instances in my time, as doing the purchasing at Mt. Vernon, where two mills quoted the same identical prices.

Q. You do recall that as a positive fact?

A. Yes, sir.

Q. Your memory as to the other is negative, is it?

A. I have no recollection of there being any other cases of the kind.

Q. You do not state, as a matter of fact, that there were no others?

A. I say that I have no recollection of there being any others.

Q. I understand. But do you recollect, as a matter of fact, that there were no others?

A. That is my recollection,—that there were no others.

Q. Let us take them up. For 1910 how many contracts did you make?

A. I could not remember that now.

Q. In what periods of the year were they?

A. I could not remember that, either.

Q. Can you mention the names of the bidders?

A. They would be the same mills that I have always mentioned.

Q. Can you give what their respective bids were on each of these contracts?

A. Not any more than that it is my recollection that in the latter part of 1910 our purchases were made of the Corporation because their price was lowest.

Q. But I am asking you now: Can you recollect who were the bidders, giving their names, upon these several contracts for 1910, and what the bids were?

A. No, sir; I could not.

Q. You have no recollection of it whatever?

A. I have a recollection as to who we asked for bids, but not as to the amount they bid.

Q. Nor the variation in the bids?

A. No; I would not attempt to say.

Q. Can you specify any single contract for the year 1910 where you can give who the bidders were, and what the respective bids were?

A. No, sir.

MR. LINDABURY: This whole subject was examined upon by you thirty-five minutes ago, Judge.

MR. DICKINSON: But you went into it further.

GEORGE BARTOL

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Bartol, I believe you are the general manager of the Otis Steel Company, Cleveland, Ohio; is that correct?

A. I am president of the company at the present time.

Q. How long have you been president?

A. The company was reorganized about two years ago as an Ohio corporation, and I became president of the corporation at that time. Previous to that I was general manager.

Q. How long were you general manager?

A. From about 1896 or 1897.

Q. Down to the time of your election as president?

A. Down to the time of my election as president.

Q. Has someone else succeeded you as general manager?

A. No, sir.

Q. Then you are the president in name, but both president and general manager in fact?

A. Yes, sir.

Q. What does the Otis Steel Company manufacture?

A. Steel plates, forgings, and castings.

Q. How large a concern is it?

A. The present capitalization is $10,000,000. That is not all issued.

Q. About what is issued?

A. There is about $7,000,000 of common and preferred; some bonds.

Q. The investment, then, is about how much, counting bonds and all?

A. The investment in the old plant is in the neighborhood of $3,000,000. We are building a new plant. The investment in that, at the present time, is probably a million and a half.

Q. You make steel castings, and what else did you say?

A. Steel plates, quarter inch and heavier, and steel forgings; a very small amount of steel forgings.

Q. Have you open hearth furnaces?

A. Yes.

Q. How many?

A. We have five that we use for the plate business and three in our steel foundry; a total of eight.

Q. Have you any mills?

A. Yes, sir.

Q. What?

A. We have a 152-inch plate mill; a 112-inch plate mill and a blooming mill.

Q. And you have, of course, a steel casting plant?

A. Yes, sir; and a small forge.

Q. You must buy pig iron, then?

A. Yes, sir.

Q. Do you buy anything above pig iron?

A. No, sir; all the material we buy is either pig iron or raw material of that general class.

Q. You do not buy ingots or billets?

A. We do not buy steel.

Q. Do you sell in competition with any of the Steel Corporation's plants?

A. Yes, sir.

Q. Which of them?

A. In the line of plates, we sell in competition with Carnegie and the Illinois Steel Company. I do not know that the Corporation sells any steel castings. They make them, but I do not think we will ever come in competition with them.

MR. LINDABURY: Do you recall that they sell them? Do they?

MR. COLTON: It has been testified that they do not sell, or to but a very small amount.

THE WITNESS: I know that they manufacture, but I do not think they sell, and in forgings we will be in competition with them if we sell, but we do not sell enough to be really considered at all.

By MR. LINDABURY:

Q. Plates are the principal things?

A. Plates are the principal things that we compete with any of the Corporation's plants on.

Q. Did you mention anything besides plates?

A. No, sir; just plates.

Q. Is your product in plates a large one?

A. About 5,000 tons a month.

Q. Where do you compete with the Steel Corporation? In what markets?

A. We compete all over the country to a certain extent, and to a limited extent in Canada and Mexico.

Q. By "all over the country" you mean all over the United States?

A. All over the United States.

Q. That is including the Pacific Coast?

A. To a certain extent. We do not do much business on the Pacific Coast.

Q. Did you tell me when your concern was organized?

MR. DICKINSON: He said 1897.

MR. LINDABURY: I mean the company which it succeeded.

THE WITNESS: The present company, the Ohio corporation, is about two years old.

By MR. LINDABURY:

Q. And they succeeded what company?

A. They succeeded the Otis Steel Company, Limited. That was incorporated under the laws of Great Britain.

Q. When did the Otis Steel Company, Limited, begin business here?

A. The old company bought a majority of the securities of the Otis Iron & Steel Company in 1889. In 1895 they got into trouble and went through a receivership, and the concern was reorganized as the Otis Steel Company, Limited. That continued until the formation of the Ohio corporation.

MR. DICKINSON: That began in 1895?

THE WITNESS: The receivership was 1895.

MR. DICKINSON: When did the Otis Steel Company, Limited begin?

THE WITNESS: They began about 1896, I think; the receivership was only, I think, fifteen months.

By MR. LINDABURY:

Q. Were you in business in the nineties?

A. I went with the Otis Iron & Steel Company in 1879, and have been with the concern ever since.

Q. That was not the only receivership that occurred in the Steel business in the nineties, I take it, was it?

A. I think not; there were a good many of them in trouble at that time.

Q. Why was the present company organized to take over the business of the old company? I mean, did it have anything to do with financial matters?

A. The Ohio corporation?

Q. Yes.

A. Well, it was with the idea of building a new plant, increasing the capitalization, and it was thought that that could best be done by reorganizing as an Ohio corporation, to work under the laws of Ohio.

Q. But what I was wondering was whether the old company had any financial difficulties.

A. No, not at all.

Q. Did its business prosper or not during the last five years and since it has been taken over?

A. It has been prosperous.

Q. What was the growth of the business, regarding the corporate ownership, during the last ten years last past?

A. We have not increased the volume of business very much, because we were limited in the amount of land that we had at our old location, and it was with the idea of acquiring new land and building a larger plant that we incorporated the company.

Q. How much are you proposing to increase the capacity of the plant by the new buildings?

A. This first unit, as we call it, in our building, will just about double the capacity.

Q. When did you begin that unit?

A. We started construction last spring, the spring of this year.

Q. And it is progressing?

A. Yes.

Q. What was your ingot capacity in the old plant?

A. About 80,000 tons a year.

Q. Your present competition, you said, is with the Carnegie and Illinois, in part, and how many other competitors?

A. There are about a dozen in the United States that make a similar class of product.

Q. How many were there in 1901?

A. About the same number. I do not think that any new concerns have gone into exactly our line since then. Some have come in that are more or less competitors, but they are not in exactly the same line.

Q. What about the Inland Steel Company?

A. Yes, we compete to a certain extent with the Inland

Steel Company, and the Republic Iron & Steel Company has built a mill that competes.

Q. How about the Youngstown Sheet & Tube Company, or don't they make plates?

A. Yes, they are building, or have built, a mill. You see, these mills overlap to a certain extent; each mill has a certain range, and it may be overlapping another mill of a little different range.

Q. Has the output of the company increased in plates in the last ten years?

A. I should say so, very much.

Q. Have you any idea how much; whether it has doubled or not?

A. I should think nearly doubled.

Q. Speaking of the old times in the nineties, were there pools in those days?

A. We were not in any pools in the nineties. I do not know whether there were any or not. I have no personal knowledge of them.

Q. Were you in any pool at any time?

A. Yes, about twelve or thirteen years ago.

Q. What pool was that?

A. That was the so-called plate pool.

Q. Do you remember who presided over that?

A. I think Mr. Schwab was really the prime mover in it in the first place.

Q. Do you remember when that was given up?

A. I think that lasted about—something like three or four years.

Q. Do you remember when it was formed?

A. I should say, so far as my personal knowledge goes, it was about the first of 1901, as near as I can recall.

Q. Do you recall the year in which it was abandoned?

A. I would not swear to it; I should say it was somewhere around 1904 or thereabouts.

Q. Now, after that was there any association for the purpose of gathering information or for any other purpose among the plate manufacturers?

A. Yes.

Q. What was that association for?

A. Well, we found that there was a good deal of advantage in meeting, aside from the maintenance of prices, which was abandoned after we dissolved the old pool; we found it was of great advantage to meet and exchange information and get statistics and consult with each other on the business.

Q. And did you have a statistician?

A. Yes.

Q. Who was that?

A. Mr. Temple in the first place, and he was succeeded by a man of the name of Langan.

Q. How long did this statistical association continue?

A. That lasted several years longer; I could not tell you the exact date when it was given up.

Q. That was given up finally?

A. That was finally given up.

Q. What functions did that perform, or undertake?

A. Well, as an association for gathering statistics of production, and the amount of tonnage that was produced by each mill. That was all tabulated and presented at our meetings.

Q. You had meetings sometimes?

A. Yes.

Q. Were they regular or irregular?

A. They were subject to call, I think.

Q. You do not remember whether they were at fixed dates or not?

A. I do not think they were, as I remember it.

Q. At these meetings was there any price fixing?

A. No, sir.

Q. Or division of territory?

A. No, sir.

Q. Or tonnage?

A. No, sir.

Q. Nothing of that kind?

A. No, sir.

Q. Did you attend any of the Gary dinners, so-called?

A. Yes.

Q. How many of them did you attend?

A. Quite a number; I think probably I attended most of them, ones that I was invited to. I do not remember whether there were others that I was not invited to or not.

Q. You know you attended when you had an invitation?

A. Yes; usually, at least.

Q. But whether there were invitations that you did not get, you are not sure of?

A. I do not remember about that.

Q. Were there any agreements to fix prices at those meetings?

A. No, sir.

Q. What was the occasion of those dinners, as you understood?

A. Why, I think it was just the promotion of the general welfare of the business.

Q. You have been selling your products or the products of your predecessor company in competition with a dozen concerns during the last ten years?

A. Yes, sir.

Q. Are the prices that you have either asked or obtained for your products been fixed by any agreement or combination with your competitors or any of them?

A. Not since the pool was given up.

Q. Have they always been fixed independent of any agreement or understanding, express or implied?

A. Yes, sir.

Q. Has there or not been competition between you and your competitors in the sale of plates during the time last mentioned?

A. Yes, sir.

Q. Has that competition been active or languid?

A. It has been very active at times, and other times when there was business enough to go around and there was all we could do, of course there was not so much competition.

Q. Has the competition extended to prices?

A. Yes, sir.

Q. During the whole period?

A. Why, I should say so.

Q. Except in pool times?

A. Yes; except in pool times.

Q. Has that competition in prices lagged during the whole period, except during boom times, I will put it?

A. Yes, sir.

Q. Has it lagged?

A. The competition?

Q. Has the competition lagged during that time except when a boom was on?

A. Except when a boom was on there has been plenty of competition.

Q. During the time mentioned, that is, the last ten years, who has had the fixing of the prices of your products, I mean you or someone else?

A. It would generally come to me, in a general way.

Q. So that you know of your own knowledge how the prices on your products were fixed?

A. Yes, sir.

Q. And have these prices varied from time to time?

A. Yes, sir.

Q. Are the prices that you receive always or ordinarily the prices quoted in trade journals, or do they vary?

A. We generally get more.

Q. You generally get more?

A. Yes, sir.

Q. Do you know how it is with others?

A. No, I do not know, except as we run up against their prices in going after orders.

Q. How are you able to get more than they or than the quoted prices?

A. We generally try to give better service, either in delivery or quality, than our competitors.

Q. And in that endeavor you apparently have been successful?

A. Yes, sir; I would think we get better prices than our competitors.

Q. And how do you learn of their prices?

A. Well, there are various ways. Of course we find out whether we get an order at a certain price or not, or from our competitor, ask him what he is quoting, and we are gov-

erned more or less by that, and then the market is fixed on steel in the same way that it is on anything else, I suppose. The market price for wheat or cotton or pig iron or any other staple, that is a matter of common knowledge, you might say. We try to get as much more than that as we can.

Q. Is it a part of your business to keep informed as to market conditions?

A. Yes, sir.

Q. And as to the prices that your competitors are quoting?

A. Yes, sir.

Q. How do you do that, in one way or various ways?

A. In any way we can.

Q. Are you able to keep fairly well informed as to the prices they are getting?

A. Yes, we have to.

Q. Why?

A. We could not sell our goods to the best advantage if we did not.

Q. You would not know what their prices were?

A. We do not want to quote any lower than we have to. We want to get all we can. At the same time we do not want to go too low.

Q. You want to get only just a little under the other fellow?

A. A little more than the other fellow if we can.

Q. You want to get a little more than him if the market will stand for it?

A. Yes, sir.

Q. During this period have you found that your competitors were quoting varying prices?

A. Yes, sir.

Q. And is that true of the whole period, speaking generally?

A. Yes, ever since the plate pool went out of existence.

Q. Ever since that?

A. Yes, sir.

Q. Has the competition for that period of time since the plate pool went out of existence been otherwise than active and normal, such as exists in free-trade conditions, generally?

MR. DICKINSON: That is objected to because it calls for a conclusion.

MR. LINDABURY: I think I will take it back. I think it is objectionable, now that you speak of it. I will withdraw it. I think you may take the witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Bartol, the Otis Steel Company, Limited, which was finally taken over by your present company, did belong to pools?

A. It belonged to the plate pool, so called; that is the only one.

MR. LINDABURY: He was one of those eleventh-hour poolers that I presume got his full pay.

By MR. DICKINSON:

Q. Well, through that pool, as long as it lasted—the agreement as to prices was an essential part of your meetings, wasn't it?

A. I think it was, yes, sir.

Q. And you practically controlled the prices during that time?

A. Why, we controlled them from going lower than a certain price. We did not keep them from going up.

Q. But the controlling idea was that the members of the pool would not sell below a minimum price?

A. The idea was to establish a minimum price.

Q. And the object of it was to establish and maintain prices, was it not?

A. Yes.

Q. And it had that effect?

A. Yes.

Q. You stated that you attended a number of these Gary dinners?

A. Yes, sir.

Q. Well, what effect, if any, did that have upon the steel industry?

A. I never heard any discussion of prices at the Gary dinners that I can remember of.

Q. Prices were not discussed there?

A. I do not think so; no, sir.

Q. There were a great many people there, weren't there?

A. Yes, sir.

Q. Some newspaper men there too, weren't there?

A. Yes, sir; I think so. They were reported in the papers.

Q. Where you discussed prices under the old pool agreement you did not have any newspaper men present?

A. Not at that time; no, sir.

Q. And you did not have any general guests; it was rather a close affair, wasn't it?

A. Yes, sir.

Q. Well, at none of the meetings that followed your old pool agreement did you have any trade papers present?

A. Not that I know of.

Q. Well, now, while you did not discuss prices, you say, at the Gary dinners, is it not a fact that the effect of that movement was to exert an influence so as to make a firmness in price that had not existed and which did not exist when those dinners were first called?

A. If you would allow me to make an explanation?

Q. Yes, I want you to explain just all you want to.

A. We had a good many discussions when the plate pool was first formed as to just what the policy should be. Some people were in favor of putting the price up and getting all we could. Other people were in favor of maintaining a moderate price and trying to keep the price there as nearly as possible and maintaining steady conditions. Now, that is the opinion that prevailed, that we thought we would make more money in the long run, that it would be better for the business generally, and better for ourselves and better for our customers by maintaining as near as possible a good volume of business and a moderate price, rather than let the extreme fluctuations occur that obtained before the pool was formed. Since the formation of the pool we have never had prices as high, and we have never had them quite so low as they were

before. I think that has been the general effect of our meetings after the agreements on prices ceased; that is, to equalize conditions, equalize prices and equalize the amount of business.

Q. The purpose and explanation and effect as you have given it is an explanation of the Gary dinners and their effect?

A. I do not know what the intention of the Gary dinners was. I never heard of their being called for any purpose. We were simply invited to attend a dinner and have speeches, and we saw each other and had a good time, but so far as there being any intention to practically influence prices, I never saw any evidence of it whatever.

Q. You started out by way of giving an illustration or an explanation. Now, my question was as to whether or not the meetings at the Gary dinners and the meetings following the Gary dinners——

A. We never had any meetings following the Gary dinners that I can remember of.

Q. You were not a member of any committee?

A. No, sir.

Q. You knew there were committees?

A. I did not know anything about it.

Q. You do not know, then, anything about there being a general committee appointed pursuant to the Gary dinners and these general committees having subcommittees composed of various members?

A. No, sir; I had nothing to do with those.

Q. You have been about the smallest maker of plates, have you not?

A. Yes; just about the smallest.

Q. And you were not put on any of these committees, nor invited to any of them?

A. No, sir; I never was invited to any of them.

Q. In this general explanation you gave awhile ago, you first spoke of pools, and then you spoke, I think, of the meetings that took place after the pool was dissolved?

A. Yes, sir.

Q. Did the same people attend those meetings that had attended the pools?

A. Oh, I think they usually had more. They were larger, as a rule.

Q. The pools did not include all of the manufacturers of plates?

A. I did not mean that. I did not mean that there were more concerns represented, but that we had a larger representation from the same companies.

Q. Of individuals?

A. Of individuals.

Q. But the concerns were about the same, were they not?

A. The concerns, I think, were about the same.

Q. What was the effect of these meetings in producing a constancy in price or firmness in price?

Mr. Lindabury: Judge, he testified to that, and you apparently understood his answer to relate to the Gary dinners.

Mr. Dickinson: I know; and now he has said he did not. I want to make that a little sharper.

Mr. Lindabury: He gave his answer to the very question you are asking now, which I thought you understood. Still, I have no objection to your asking him again.

Mr. Dickinson: He put that in an explanation which really was not responsive, but I let him go on.

By Mr. Dickinson:

Q. Now, please tell us, Mr. Bartol, what effect——

A. I do not know that there was any direct effect from them.

Q. You got enough benefit out of them to continue to meet for a long period of time?

A. Yes; we thought so.

Q. And to meet pretty often, did you not?

A. I don't remember exactly how often, but we had frequent meetings for a long time.

Q. Isn't it a fact, Mr. Bartol, that after you quit the pool, and while these meetings that you speak of were in process,

or I mean during the period that these meetings took place, the prices over periods of time, for weeks and months at a time, were practically the same—the minimum price was practically the same among a large majority of the manufacturers?

A. What do you mean by "the minimum price"? I do not understand what you mean by "minimum price."

Q. The quoted price, then.

A. What do you mean by "the quoted price"?

Q. If you received solicitations for bids, you quoted prices, did you not?

A. Yes, sir.

Q. And others quoted prices, did they not?

A. We quoted the most that we thought we could get.

Q. But did you not, for a long period of time, months at a time, quote practically the same price, without change?

A. I think there is no difference between the practice then and now, as far as that goes.

Q. I am not asking about that——

A. The market price does not change much. The market price to-day is, I would say, just as fixed as it was five years ago or six years ago. We know pretty well what the market price is.

Q. Is it fixed to-day just as much as it was during the pool times?

A. I should say so. It has come down very steadily, and there has been very little fluctuation.

Q. The fluctuations now are not much more than they were during the pool times?

A. I would not say so; not as much. When you say "pool times" do you mean three or four years when we had the——

Q. (Interposing): The plate pool, yes.

A. I would say that we have had bigger fluctuations since that time than we did during the time. They have gone up higher, possibly, and gone down lower.

Q. But generally, have the conditions been about the same, so far as variation in price is concerned?

A. No. I should say they have gone higher and lower both.

Q. That is to say, the variations have been greater since the pools were abolished?

A. Yes, sir.

Q. But is it not a fact that over long periods of time, months at a time, the price would be practically the same, when business was normal?

A. When business was on an even basis, I should say the price had been tolerably even.

Q. And the prices of all the manufacturers were about the same, were they not, over such periods?

A. Yes; naturally. That is always so.

Q. How many of those meetings did you attend after the abolition of the pool?

A. Pretty much all of them, I think.

Q. Do you recall that you did attend all of them?

A. I think I attended all that I knew of. It would be impossible for me to say how many, because I have not——

Q. They were very frequent, were they?

A. Sometimes we would meet in a month; sometimes it would be three months or six months.

Q. You got some benefit out of it, did you?

A. I think so; yes, sir.

Q. Did it have the effect of steadying prices?

A. I think in a general way it did; yes, sir.

Q. Well, now, please state what companies were represented at these meetings that you attended, and by whom were they represented?

A. Well, there was the Carnegie Steel Company. I will take the big ones first.

Q. State what different people represented the Carnegie.

A. I think Mr. Bope was usually there representing the Carnegie Steel Company. The Illinois Steel Company, Mr. George F. Baker. Jones & Laughlin, Mr. Willis L. King, or the sales agents; I think there were several of the sales agents usually attended those meetings. I do not recall their names now. Worth Brothers Company, Mr. W. P. Worth.

Lukens Iron & Steel Company, Mr. A. F. Huston or Mr. Van Orman. And I think we had some meetings—well, there was the Glasgow Iron & Steel Company; that was rather a small concern. Mr. Shoemaker and Mr. Roe, I think it is. I may have missed some of them. Offhand I think those are the principal ones.

Q. How about the Cambria?

A. Yes, the Cambria. There was Mr.—I cannot think of his name. He is dead now. The Cambria came in later. I do not think they made plates at the time of the pool; they built their mill afterwards.

Q. The American Steel & Wire Company?

A. Well, they went out of the plate business.

Q. The Crucible Steel Company?

A. The Crucible Steel Company used to attend meetings in the old pool for a while. I think they went out before the pool terminated, if I remember right.

Q. So that you have given us, so far as you now recall, the various concerns?

A. If you will remind me of some I have not named, perhaps I can tell you, if you have the names right there.

Q. These are the names that were in the old pool. The Tidewater?

A. Well, they failed; they went to the wall and closed up entirely.

Q. After the pool broke up?

A. It was about the time the pool broke up. I think they suspended operations before the pool dissolved.

Q. The Central Iron & Steel Company?

A. Yes, the Central. I forgot that. That was Mr. Bailey, two Mr. Baileys, Edward Bailey and Mr. James F. Bailey.

Q. What became of that company?

A. Well, they have got into a little trouble, I believe.

Q. When?

A. That is comparatively recently, in a couple of years.

Q. Are they in the hands of a receiver?

A. I think they are still.

Q. When did they go into the hands of a receiver?

A. I think it is a year or so ago.

Q. Now, at these meetings you said you had no agreement; is that a fact?

A. Yes.

Q. What do you mean by agreement?

A. I mean just what I say.

Q. I mean that you entered into no contract with each other?

A. Well, contract, agreement, understanding—anything you have a mind to call it. I do not know what your definition is.

Q. Didn't you discuss the question of prices there, and the condition of trade?

A. Yes.

Q. Didn't you during those meetings announce your prices?

A. I told them what we were getting, what prices were being made. The proceeding was generally this, that each man——

Q. I am asking you a particular question, please.

A. Very well.

Q. You can explain all you want, but I prefer to ask the questions myself.

Did you announce at those meetings at any time before you left at what prices you expected to sell your product?

A. No, sir.

Q. You never did make any announcement of that sort?

A. I don't remember it.

Q. You say you do not remember it?

A. I think I would know it if I had.

Q. I am just asking you not what you think, but whether you remember that you did or did not.

A. I don't remember making any prices; it was understood that we were not to do anything of that kind.

Q. It was understood that you were not to make any agreements?

A. That was the only understanding there was, that we should not make any agreements on prices.

Q. It was understood that you were not to make any agreements on prices, and you did not?

A. No, sir.

Q. And it was understood that you were not to enter into any contract about division of territory, and you did not?

A. That is correct.

Q. And it was understood that you were not to enter into any contracts about limiting output, and you did not?

A. No, sir; we did not.

Q. I am asking something quite different from that, whether or not you announced at any of those meetings at what prices you expected to sell your product?

A. I do not think so; no, sir.

Q. Are you positive about that?

A. As positive as I am about any of it. That is a number of years ago. I might have sometimes stated I was selling at a certain price or expected to sell at a certain price, but I do not recall anything of that sort.

Q. You may be mistaken about that?

A. I might be mistaken about that.

Q. When was the last meeting you attended?

A. I cannot give you the date.

Q. Can you not give the month?

A. No, sir.

Q. Can you not give the year?

A. No, sir; it was several years ago.

Q. Have you had any occasion to think over it recently?

A. No, sir.

Q. You have not refreshed your memory?

A. I haven't refreshed my memory at all on the facts and figures.

Q. Your memory is very general as to that?

A. Yes.

Q. You do not undertake to give details positively one way or the other?

A. No, sir.

Q. Except that you made no contracts?

A. No.

Q. And you made no agreements?

A. No agreements whatever.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. How old are you?

A. 56; 57 nearly.

Q. Is your memory good?

A. So far as I know.

Q. Have you any doubt or infirmity of recollection as to what generally occurred at these meetings following up the breaking up of the pool?

A. I have a pretty good idea of the general drift.

Q. What was it?

A. The general drift was that we had a meeting to discuss general market conditions; that is, each man as a rule, or each representative of a concern, would make a little speech and tell how he found business, what prices were going, about what percentage of his capacity he was running, what the prospects for business were, and all such questions affecting the general welfare of the business.

Q. You stated that these meetings resulted, you thought, in steadying prices. How was that accomplished?

A. I will state, as a matter of fact; the question was often discussed whether it was better to maintain a fairly uniform volume of business at a moderate price, or wether it was better to let the old conditions of fluctuation prevail. Some of the members of the old pool argued that we would make more money if we did not have any pool at all, if we would let prices soar 'way up and reap a big profit for a while, and then let them go down again, like a speculator can make more money on extreme fluctuations of prices rather than on steady prices. I think the opinion prevailed that uniform and steady conditions were better for everybody. I think that policy was kind of worked into our minds, so to speak. I think it has had an effect upon us ever since. I think it has to-day; although there is no such thing as a price agreement, I believe

the market to-day is steadier than it would be under the conditions that existed back in the nineties, for instance.

Q. Now, at those meetings, you have spoken with regard to the attitude of certain members of the old pool. Did they make speeches and explain?

A. Yes.

Q. Was the other side of it discussed by anybody? I mean, were speeches made on the other side of the question in favor of the steadier course?

A. Yes.

Q. And did more than one participate in the debate?

A. Everybody.

Q. And were those debates continued at the different meetings?

A. Yes; we always had a debate of that sort.

Q. Did you ever vote on the subject, or simply let the sentiments expressed filter into the minds of those there?

A. We used to at the old pool meetings, but never after that.

Q. I mean at those meetings you had when you were discussing the question.

A. No, there were no votes taken at those.

Q. Simply speeches made?

A. Yes.

Q. Did those meetings ever break up with any understanding or agreement, express or implied, as to the prices to be charged by the individuals attending the meeting or the concerns they represented?

A. No, sir.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Do you undertake to say what your understanding was, or do you speak for the understanding of each person there?

A. Only for myself.

(Whereupon a recess was taken until two o'clock p. m.)

ISAAC G. HAAS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Mr. Haas, where do you live?

A. Cleveland, Ohio.

Q. What is your business?

A. Manufacturer of agricultural implements.

Q. Have you a corporation?

A. Yes, sir; the Empire Plow Company, of which I am president.

Q. When was that company organized?

A. In 1890.

Q. How long have you been its president?

A. Since February, 1901.

Q. When did it begin business?

A. As a corporation, you mean?

Q. Yes.

A. In 1890, I think.

Q. You became president not upon its organization?

A. No, sir.

Q. But within a year thereafter?

A. Oh, no, eleven years thereafter.

Mr. Dickinson: February, 1901, he said?

By Mr. Lindabury:

Q. Oh, you said 1890?

A. 1890, yes, sir.

Q. As I understood it, it was 1900.

A. 1890.

Q. When did it begin the business of manufacturing plows?

A. The corporation began business when it was organized, but the company has been in existence since 1865, but not as a corporation.

Q. In the same business?

A. Yes, sir.

Q. And does it make anything besides plows?

A. Yes, sir; it makes cultivators and harrows and road scraper blades; these blades are used on large scrapers for the use of scraping roads.

Q. They are only used in agricultural districts, I suppose?

A. They are used all over the world.

Q. What kind of steel, if any, do you use?

A. We use what is ordinarily known as Bessemer and open hearth steel.

Q. In what form?

A. In bars and in plates.

Q. What tonnage do you consume per year?

A. Why, I should say on an average of 7,500 tons, 7,000 to 7,500 tons.

Q. Do you make your purchases in the open market?

A. Yes, sir.

Q. From one or more concerns?

A. Usually from about five.

Q. What five, if they are usually the same five?

A. Yes, usually they are the same, Jones & Laughlin Steel Company—I do not know their technical names.

Q. Jones & Laughlin, that is right.

A. Jones & Laughlin, Republic Iron & Steel Company or Steel & Iron Company, I don't know which it is, Carnegie, Lackawanna. I think those are all the large ones. Then there are several smaller ones.

Q. Do you buy from the smaller ones?

A. Sometimes we buy from the smaller ones.

Q. Do you usually buy on yearly or semi-yearly contracts?

A. On yearly contracts.

Q. How long has that been your practice?

A. Ever since I have been connected with it, and I think that is the custom of the trade.

Q. That is, since 1901?

A. Yes, sir.

Q. By "custom of the trade" you mean of others besides yourself?

A. I mean those in the agricultural implement business.

Q. They generally buy that way?

A. Yes, sir.

Q. And before making your contracts what, if anything, do you do to ascertain the market prices?

A. Well, we invite the various representatives to call and see us of those concerns which I have mentioned, and many others have local agencies in Cleveland, and when we are in the market we phone them and their representatives come out to see us, and they give us their prices.

Q. Do the representatives of those concerns visit you on other occasions than these on which you invite them?

A. Yes, frequently.

Q. Soliciting your trade?

A. Yes.

Q. In ordinary ways?

A. Yes, sir; soliciting our trade.

Q. Now, has that practice that you have just alluded to of inviting bids and receiving quotations continued from year to year ever since you have been connected with this business?

A. Yes.

Q. It is the usual course of trade with you, is it?

A. Yes, sir.

Q. Have you found the quotations that they have made in response to these invitations uniform or variant?

A. Varied.

Q. And is that during the whole period that you speak of?

A. Yes, the whole period.

Q. Have your purchases been made on a competitive basis?

A. Yes.

Q. That is, I mean do you give your business to the most favorable bidder?

A. We give our business to the most favorable bidder, all things considered.

Q. And what besides price, if anything, is taken into account?

A. Quality and service.

Q. Is the quality of the product of the leading concerns substantially alike?

A. They are substantially alike; yes, sir.

Q. So that as to them there is not much difference in that respect?

A. There is a difference, enough to justify a preference; there is a difference. Answering your question, they are substantially alike, yes.

Q. Do you mean that there is enough difference to justify a preference without regard to price, or when prices are the same?

A. No, when prices are the same.

Q. Is there any one of the concerns to whom you give the preference if prices are the same?

A. Yes, we give it to the Carnegie Steel Company.

Q. Why?

A. Because their quality is uniformly good in all the years we have been doing business with them since I have been connected with the institution; I do not know of a single case where their goods have not been as represented, and as we expect to get them. Besides, their service is better than any of the balance. When I say "service" I do not mean to say or to be understood that they always give us quick shipments; that they do not do; but they have a perfect organization, it seems to me, and when we place an order and we ask when we may expect shipment they will not say next week or next month, but some little intelligent thought is given to that and we are advised, "We expect to ship this in two months or six weeks or three months"; and when they tell us that, we can count almost to a certainty upon getting it.

Q. Now, have you made—I judge you have made—some of your purchases from the Carnegie Company, in view of what you have just said?

A. Yes.

Q. What percentage of your purchases have you made from them?

A. I find upon looking up the figures of the last year, and I speak of the fiscal year, running from July to July, that is

when our fiscal year ends, we bought last year all told 6,600 tons. Of that a trifle less than 1,000 tons was from the Carnegie Steel Company.

Q. How did that happen if their service and quality were so satisfactory?

A. Their prices were a little bit out of line.

Q. What about the preceding year?

A. It runs about the same. I went over these figures for three years past, and I found it to be about the same. This year, thus far we have bought, this is the fiscal year, 4,600 tons of steel, of which 15 per cent. has been from the Carnegie Steel Company.

Q. You have not found the quality of their goods or the character of their service to be such as to give them your trade on a non-competitive basis?

A. No; we could not afford to do that.

Q. You have told us about three years. What is your recollection about the preceding six or seven years?

A. Well, I think it has been running about the same way.

Q. Have the quotations of the competitors of the Carnegie Steel Company been variant?

A. Yes, they have.

Q. So that there has been competition between them all?

A. Yes, sir.

Q. Have there been any occasions when any two of them happened to bid the same price?

A. Yes.

Q. Has that occurred more than once?

A. Yes; that has occurred frequently.

Q. Between the same two always, or between different groups at different times?

A. No, between different groups.

Q. Of the five or six whom you do have quote, did it often happen that more than two would make the same price?

A. Yes; I think it happens at certain periods; if you have a period like last year when steel was very scarce, we understood, and when I say "we," my firm understood it was the policy of the corporation not to let the market run away, not

go too high, and, of course, other competitors had to follow in their footsteps. In other words, if the Carnegie Steel Company were asking $1.40 for bars and competitors were asking $1.50 per hundred pounds, I mean, the competitors could not expect to get the business, and under such conditions the market ran along about the same for quite a period.

Q. That is, in times of great prosperity sometimes called boom times, the Carnegie Company held the price down, did they?

A. Yes, sir.

Q. And others were unable to get business at a higher price?

A. Our experience has been that on advancing markets the Carnegie Company were as low and frequently lower than competitors, while on declining markets they were generally a little higher.

Q. So you bought from the Carnegie Company on a rising market, and from their competitors on a falling market?

A. It would not always happen that way.

Q. More or less?

A. I am very frank to say that we would rather buy from the Carnegie Steel Company than from any other manufacturer. I don't know whether it is good policy for me to say so, because it puts us in bad with the other competitors; but, at the same time, it is a fact.

Q. You don't love them enough to give them any more than the competitors ask?

A. No; we cannot do that.

Q. From whom have your other purchases been made? From what concerns?

A. From the Republic Iron & Steel Company; Jones & Laughlin; the Lackawanna; some little from the Crucible Steel Company, but they are usually not cheap; we do not often buy from them.

Q. Have the purchases been distributed among these concerns year after year, or has there been one period when you purchased from one or two of them, and other periods when you purchased from others?

A. Yes; we have varied our purchases, in other words, from year to year, depending upon the prices.

Q. Has it usually happened, I mean, that one concern would be lower in one year or in one period, and another in another year or another period?

A. Yes.

Q. And that has occasioned the distribution of your business, has it?

A. Yes; that is right.

Q. And are you ever able to negotiate a better price than the first quoted price?

A. Yes; occasionally. Frequently, in fact.

Q. You frequently do that?

A. Yes.

Q. At what time of year do you make your yearly contracts, ordinarily?

A. Generally in the spring. We find that the most favorable time to buy, and besides, we must get busy about the 1st of July to sell our product.

Q. For the next season?

A. For the next year. We begin about the 1st of July.

Q. Do you ever observe the quoted price in the Iron Age or Iron Trade Review?

A. I read them all the time.

Q. Do the prices quoted to you agree with them ordinarily?

A. Ordinarily, yes; but frequently not.

Q. And do the prices that you actually pay, as a result of competition between the manufacturers, agree with the quoted prices?

A. I do not get that.

Q. Do the prices that you finally buy at, as the result of negotiation or competition, agree with the quoted prices in the Iron Age, or are they different, ordinarily?

A. They are usually different. Sometimes the same, but usually different.

Q. Are they different in the majority of cases?

A. Yes; they are different in the majority of cases.

Q. Were you ever interested in the South?

A. Yes. In 1901—that is the year I became president of the company, in the fall of that year—we bought a plant in Ensley, Alabama, a plant that had been running one year.

Q. How long did you own that?

A. We owned that nine years.

Q. What has become of that?

A. We sold it to a street railway company for car barn purposes, after running it nine years and losing a lot of money.

Q. What was the condition as to service of steel corporations when you went down there?

A. Well, the thing that attracted us there was a very valuable contract which the party whom we bought out had with the Tennessee Coal, Iron & Railroad Company. They had a contract—do you want me to tell you about that?

MR. LINDABURY: Yes.

MR. DICKINSON: We object to that as irrelevant.

MR. LINDABURY: That is introductory, Judge.

By MR. LINDABURY:

Q. Go on, Mr. Haas.

A. They had a contract with the Tennessee Coal, Iron & Railroad Company; that is, the Tennessee Coal, Iron & Railroad Company had a contract with the Austin-Bryan Manufacturing Company, whom we bought out, whereby they had agreed to furnish them with steel for ten years, a certain quantity—I think it was 5,000 tons per year, or any part thereof—for ten years from the date of that contract, at the Pittsburgh market price, without any freight. That contract looked very favorable to us, and we bought out that Austin-Bryan Manufacturing Company, bought them out after they had run a year. We ran the place until that contract was exhausted. We could not make any money, however, because the material that the Tennessee Coal, Iron & Railroad Company were delivering us was not such that we could use it to advantage.

Q. What was the trouble?

A. Well, it would either be too thick or it would be too thin, or the quality would be bad, or it would be too brittle or

too soft—always something "too"—insufficient in its quality.

Q. There was a variation from time to time in these defects, I suppose?

A. Yes, there was a variation. All the time it would either be a matter of quarreling with them or taking what they gave us. If the metal you use is too heavy, you lose your profits, in the excess weight, while if it is too light, you lose your profits by having trouble with the customers; so, taking it all in all, when the contract expired, we were very glad to expire with it, so far as we were concerned, down there.

Q. Were you there after the Corporation took over the Tennessee Coal, Iron & Railroad Company?

A. Yes; I think they took hold of it about 1907 or 1908; 1907, I think it was, was it not?

Q. Yes, 1907.

A. I think it was, yes. I must say that different conditions prevailed as soon as they took hold of it. They did what money usually does with such an enterprise—they built it up, they improved the quality, and we got very much better service after they took hold of it; and by the time we quit there, I think, if our contract had not expired, we probably would have continued. At any rate, there was very much better service and better goods, and better conditions prevailed when we left the Ensley field, which was in 1911, two years ago.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Mr. Haas, what tonnage of iron and bars did your company buy in the year 1901?

A. In 1901? I can not tell you accurately, but I imagine about 6,000 tons; 5,000 or 6,000 tons. If you will allow me, I will amend that and say 5,000 tons.

Q. From whom did you buy that?

A. You speak of the Cleveland——

Q. Yes; I am not speaking of the Alabama affair.

A. Of the Cleveland?

Q. Yes.

A. Yes.

Q. From what concerns did you buy that?

A. From those same concerns that I have named. We have always bought from them.

Q. Do you remember that you bought from all of those concerns in 1901?

A. No; we did not. We did not buy from the Lackawanna at that time.

Q. Do you recall distinctly and state as a fact that you did buy from each of the others?

A. Yes, I do.

Q. Do you know what quantities you bought, and what time of the year you bought, when you made the contracts and what the prices were?

A. No, I do not. I only know we usually buy our year's supply in the spring of the year.

Q. And you usually bought from those people?

A. Yes.

Q. You cannot state——

A. I cannot state, because there was nobody else——

Q. (Interposing): Now, let me state, and then you state. You cannot state what contracts you made with each of them for that year, or what proportion?

A. No.

Q. Is it not a fact that you bought more from Carnegie than you did from the others?

A. No, I don't think so.

Q. You don't think so; have you any recollection or memory about it, at all?

A. Yes; I have just this recollection, in a general way, that we have always regretted our inability to buy more goods from the Carnegie Steel Company.

Q. In 1902, what tonnage did you buy?

A. I could not tell you that accurately, any more than I can tell you about 1901. I know that our business has grown right straight along up to the present time.

Q. That is to say, it has grown all the way from about 5,000 up to about 7,500 tons?

A. Yes.

Q. Since what period?

A. That period of eleven years.

Q. A period of eleven years?

A. Yes, sir.

Q. Can you give for any of those years back of 1912 the percentage that you got from either of those companies?

A. Not accurately.

Q. Nor the prices?

A. No.

Q. Nor the bids that were made by them?

A. No.

Q. Now, you say you bought plate. You bought plate, did you, in the years 1901, 1902, 1903 and 1904?

A. Oh, yes.

Q. Don't you know there was a plate pool then to which the Carnegie was a party and Jones & Laughlin was a party?

A. I do not know it; I know we did not buy any from the Carnegie.

Q. Did you buy from Jones & Laughlin?

A. Yes.

Q. Don't you know that Jones & Laughlin belonged to a plate pool during that time?

A. No.

Q. Don't you know that that was a matter of common knowledge and everybody that was posted in the steel business was acquainted with that fact?

MR. LINDABURY: I object to that.

MR. DICKINSON: He can tell if he knows.

MR. LINDABURY: Let me put my objection. I understand that it is not proper to ask the witness if he does not know that a thing is a matter of common knowledge.

MR. DICKINSON: I will ask him if he does not.

THE WITNESS: I will tell you as a matter of knowledge that I do not know it. I know there are lots of reports all the time about certain conditions existing which when investigated do not stand the light of day. I know that is frequently the case.

By Mr. Dickinson:

Q. You do not know that that was investigated so that it did not stand the light of day?

A. No, I do not.

Q. You do not undertake to say that then?

A. No.

Q. Don't you know as a matter of fact that during those years the larger manufacturers of plate were in a pool and quoted the same price, all of them the same price, over periods of time?

A. No, I do not. I have reason to believe otherwise.

Q. Was there no period from 1901 to 1905 that manufacturers of plates with whom you dealt quoted to you the same price on proposed purchases?

A. I do not get that.

(The question was repeated by the stenographer.)

The Witness: No, sir; there was not.

By Mr. Dickinson:

Q. You mean to say, then, that from 1901 to 1905 parties from whom you solicited quotations on plates, all of them, that each time when they bid, quoted to you a different price?

A. No, sir; I did not say that; I do not say that. I said that all of them did not quote the same price.

Q. They did not quote the same price?

A. No.

Q. Is it not a fact that more than two of them frequently quoted the same price?

A. Yes.

Q. Has that not continued off and on down to the present time?

A. No.

Q. When did it cease?

A. It is hard to say when it ceased; our experience has been that when we want to buy we do not have to pay the so-called pool price or the Iron Age price or the Iron Trade Review price.

Q. There was a so-called pool price?

A. So it has been intimated time and again.

Q. At the time you were buying there was a price which you understood to be the pool price?

A. Yes; that is right.

Q. And you say that you bought at less than that price?

A. Yes.

Q. Did you always buy at less than that price?

A. Always, every year.

Q. You always found somebody, even if they were in the pool, that would sell at less than the pool price?

A. All I say is that we bought for less than the quoted price.

Q. I say, if they were in the pool, notwithstanding that, you bought from some of them at less than the pool price?

A. That is right.

Q. You make how many purchases a year, generally, just one contract?

A. You mean one contract with one concern?

Q. No, I mean to say that about the spring, as I understood you to say, you were in the market for that year?

A. Yes.

Q. And you do not go into the market again for your requirements until the period approaches for the need of another contract?

A. That is right.

Q. And that is about the time that you become familiar with prices?

A. Yes.

Q. Those are the times that you solicit bids?

A. Yes.

Q. And as to what took place between those times you do not know?

A. I do not know absolutely.

Q. I mean you do not know from any solicitation of bids or quotations to you, do you?

A. No, except occasionally we are forced to go into the market: we might exhaust a contract with a certain mill.

Q. That was merely occasionally.

MR. LINDABURY: Wait a moment.

MR. DICKINSON: Had you finished?

THE WITNESS: Yes; I had finished.

MR. DICKINSON: I thought he had.

MR. LINDABURY: No; you finished him.

By MR. DICKINSON:

Q. That was merely occasionally?

A. Yes.

Q. Now, I understood you to say—and if I am wrong, please correct me—that there was a period where the bids of several of them frequently were the same, and that ceased. Do I understand you correctly on that?

A. I will get you to repeat that.

Q. I may have got that a little awkward. I understood you to say that although it frequently occurred that several bid you the same price—not all, but several—that there was a time when this ceased to be the case; is that a fact?

A. No, I do not say that.

Q. You do not say that?

A. No, sir.

Q. Then it is a fact that down to the present time when you solicit bids it occurs that several of these competitors quote to you the same price?

A. Several quoted us the same price.

Q. Then you begin trading, do you?

A. Yes.

Q. And getting your requirements at one time for one year, that is a considerable purchase, is it?

A. It is, for us.

Q. People want your business, do they not?

A. Yes.

Q. They are rather keen after it?

A. Yes.

Q. And then you make a bargain and you trade below these quoted prices, do you?

A. We frequently do.

Q. Sometimes you do not?

A. Sometimes we do not.

Q. Sometimes you are not able to get below these quoted prices?

A. That is right.

Q. I understood you to say that the prices of the Corporation really fixed the price; is that a fact?

MR. LINDABURY: I object; the witness has said nothing of that kind.

THE WITNESS: No, sir; I didn't say that.

By MR. DICKINSON:

Q. You didn't say that?

A. No, sir; I have no way of knowing that at all.

Q. Didn't you say something about the price of the Corporation being known, the others could not go over that price?

A. I said in times of great demand, like we had this past year, that the Corporation fixed the price and would not permit a runaway market; at least that was the general assumption amongst the trade.

Q. And it exerted a great influence in that direction?

A. Yes.

Q. It was powerful enough to exert that influence on the market?

A. Yes.

Q. And has exerted a very great influence upon the market?

A. Probably.

Q. That is your assumption, is it?

A. That is my assumption.

Q. Now you say unusual times; there are periods even since 1901 where for a long time business would be normal, wouldn't it? It would not be characterized by any very great fluctuations one way or the other?

A. Yes, sir.

Q. During those periods would not the prices remain pretty nearly the same?

A. No, they would not; "pretty nearly the same," and "the same" are different. We are a small concern, and we sell our merchandise at very close margins of profit; therefore we have got to buy very closely, and "the same" and

"nearly the same"; that is entirely different, "nearly the same." At the same price I have stated we would give the Carnegie Steel Company the preference, and yet during the last three years—I am speaking now from figures I have looked up, regulars—I am sure in any of those years they have not got more than 17½ per cent. of our business.

Q. But during the time when these contracts were made, every once a year, they were made on trading and shopping for the business, were they not?

A. Yes, surely.

Q. You spoke of quoted prices in trade papers. What were those prices supposed to be?

A. The prices varied from time to time.

Q. I know, from time to time; but for the times they did appear, were they the Corporation prices?

A. I don't know.

Q. You don't know that?

A. I have no idea whose prices they were.

Q. In ordinary times, did the bids that were made to you by several of these competitors at one time agree with these quoted prices?

A. I do not know that I could answer that; in ordinary times there have been variations, and there have been times when they were alike, but whether those were ordinary times, I do not recall.

Q. You mean there have been times when these bids so made were like the prices quoted in the paper?

A. Yes, sir.

Q. But as to characterizing what those times were, whether ordinary or not, you are not willing to say?

A. No.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Well, were these agreements or identity of quotations the rule or were they the exception?

A. They were the exception.

Q. And was this correspondence of quoted prices with the Iron Age or Iron Trade Review prices frequent or infrequent? Did they frequently agree with the Iron Age or was that infrequent?

A. That was infrequent.

Q. Now, you speak of the Carnegie Company being able to hold the price down on a rising or boom market. Could Jones & Laughlin or any other concern have done the same thing?

A. Yes, I think any big concern could have done it. I am not sure; that is simply my judgment, that it was the Carnegie Steel Company, or, rather, the United States Steel Corporation, that held those prices from getting a runaway market. I do not know it to be the case. It is simply my judgment.

Q. You spoke of making yearly contracts, but I understood you usually had occasion to make purchases between the contract periods?

A. Yes, sir.

Q. For deficiencies?

A. Yes, sir.

Q. Did you have such occasions pretty much every year when you had to purchase more or less?

A. Well, it frequently happens. I could not say it happens every year; for instance, this year we are in it right now. None of the steel companies would sell us beyond January 1st delivery, and so we will be obliged to make new contracts.

Q. To fill out the yearly requirements?

A. Yes.

Q. Well, are you visited by the salesmen of the various concerns between these spring periods?

A. Yes; they come frequently.

Q. And quote prices to you, do they?

A. Yes, sir.

Q. And in those ways do you keep informed as to market conditions throughout the year?

A. We keep very well informed, I think.

Q. Do the quotations that you receive vary throughout the year between these purchase periods as well as at those pur-

chase periods, and has that been the case during the last ten years?

A. Yes, sir.

MR. LINDABURY: That is all.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. Have you any reason for having impressed upon your memory the question of quotations at periods other than those when you expect to purchase?

A. Yes. A merchant in business must keep advised of what is going on.

Q. If he buys for his yearly consumption and has it covered by a contract, he has no special reason to be advised as to that, has he, until the time approaches for his making another contract?

A. Indeed he has. Suppose the market goes down five dollars a ton, which has frequently happened; if he is going to hold his product without reducing his price, he will hold his goods, he will not market them.

Q. Then the price of your goods is dependent, is it, upon the price of the plate and the rods?

A. Entirely, the plate and the bars.

Q. Do your prices always shift and follow these variations that you refer to in the price of bars?

A. They do not vary. If there was a change of a dollar a ton or so we would not change our prices, but any material advance or reduction we do. We are selling a staple line of goods. We are a little different from large concerns.

Q. A large part of your product is plows, isn't it?

A. Yes.

Q. Take the year 1910; how many times during that year did you change the price of your plows, do you know?

A. Probably not at all. In 1910 I don't think there was any change in price.

Q. Was there any change in prices in 1910 in plates and bars?

A. No material change; I do not think there was. Let me see, 1910—yes, there was one year when there was a reduction, just about the time you mention. There was a big reduction. I think that was 1910 to 1911, or 1911 to 1912. I would not want to say as to the year.

Q. Well, take the year 1911. How many changes did you make in the price of your plows during that year?

A. 1911?

Q. Yes.

A. If that was the year; there was a year—there was quite a big reduction in the price of steel, something like five or six dollars a ton. We made a reduction corresponding with that decline in the market. I won't be sure; it might have been 1911. I speak from between July, 1911, and July, 1912. When I speak of years, I go by fiscal years.

Q. That was a big reduction?

A. Yes, sir.

Q. Well, do you follow all these reductions in the price of your plows?

A. We do.

Q. Do you mean to say that from 1901 down to 1913, from time to time during the year the prices have varied upon your plows in some relation to the variation of prices in plate and rods?

A. In plate and bars.

Q. Plate and bars?

A. Yes, sir. Do not misunderstand me now. I do not say we changed our prices every time there was an advance or a reduction, but every time there was a material advance or reduction of a few dollars a ton, three or four dollars a ton, our competitors see to it that we reduce our prices.

Q. Do you know how often during that time there was such a reduction in the price of your plows?

A. No, I could not tell you that.

Q. Now, haven't you maintained a pretty constant price during each year for your plows?

A. Yes, sir.

Q. And haven't the changes been rare in the price of your plows?

A. No.

Q. Where do you sell them?

A. All over the world.

Q. And haven't the changes each year been rare in the price of your plows?

A. In each year it has not.

Q. How?

A. The changes each year have not been rare; in fact, it has been the rule to change our prices beginning with the 1st of July, but it has been our policy not to change those prices once we have fixed them, if it is possible.

Q. I mean during the year; haven't your changes during the year been rare?

A. They have been rare, yes.

Q. Quite rare?

A. No, not quite rare.

Q. Can you tell how many changes you made in 1912?

A. Well, we have made three changes thus far since the 1st of July.

Q. This is 1913.

A. Yes, sir.

Q. I am asking you about 1912.

A. In 1912 I do not think we changed at all.

Q. How about 1911?

A. That I do not recall.

Q. Well, how about 1910?

A. I do not recall back there.

Q. 1909?

A. I do not recall the conditions that prevailed at that time.

Q. What size plates do you buy?

A. Up to about 26 inches in width.

Q. And in rods?

A. In rods not at all.

Q. In bars?

A. Bars, from a quarter of an inch up to six inches.

Q. What is the thickness of your plates?

A. 3/16, ¼, ⅜, and ½.

Q. Are they the ordinary standard plates?

A. No. I am speaking of those as plates because they are known as plates to the trade. Among plow people they are known as plow slabs. They are the same as plates. The elements are the same, with the exception of the fact that the plow slab is of higher carbon. That is the only difference, as I understand the steel business.

Q. Were those quoted as standard in the market?

A. We know it all as the same thing.

MR. DICKINSON: That is all.

EDWARD F. GOLTRA

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. St. Louis, Missouri.

Q. How long have you lived there?

A. Since 1888.

Q. What is your occupation?

A. Iron manufacturer and fabricator and iron ores.

Q. Do you own any iron ores?

A. The company in which I am interested has a deposit in Allamakee County, Iowa.

Q. What is the name of that company?

A. The Missouri Iron Company.

Q. What office, if any, do you hold in it?

A. President.

Q. How long have you been president of that company?

A. Since its inception. That company was incorporated, I think, in 1906.

Q. What other businesses are you engaged in, Mr. Goltra?

A. That is the principal active matter that I am engaged in, but I have some interests in other things. I am interested in banking, being a stockholder and a director in the Commonwealth Trust Company of St. Louis, Missouri.

Q. In what part of Iowa is this iron ore that your company owns located?

A. The most northeastern county of the State.

Q. And about what acreage of ore-bearing property does your company own?

A. 280-odd acres, I think.

Q. What are the dimensions of your company's holdings?

A. I don't understand the question.

Q. How long is this deposit, and how wide?

A. Expressing it in that manner, say about half a mile wide and a mile long.

Q. What is the quality of that ore in its natural state?

A. As we steam shovel it, it has a metallic content, on an average, I should say, of about 20 per cent.

Q. It is rather low in iron then, is it?

A. Yes, sir.

Q. And about how many tons of that ore, or ore material, do you estimate that there is contained in the deposit owned by your company?

A. Our engineers report that there is something over ten million tons of recoverable ore.

Q. Is that stated in terms of concentrates, or of crude ore?

A. That is stated in terms of concentrates,—shippable ore.

Q. I was not asking particularly about that at that moment. Can you tell us about how many tons of crude ore are required to produce a ton of merchantable concentrates?

A. Oh, I should say on the average, as we shovel it, about one ton of concentrates to, say, four tons of shovel stuff.

Q. That means about 40,000,000 tons of crude ore material in this deposit?

A. I should say so, yes.

Q. Does your company own also a concentrating plant near this property or on it?

A. We own a concentrating plant at the property.

Q. Are you operating that concentrating plant at the present time?

A. We are just this week putting in an additional unit, and are not operating.

Q. But you have been in the past?

A. We have been operating until we stopped to put in that additional unit.

Q. Is that the only reason for the present shut-down?

A. That, together with the fact that just at the present time the docks are all filled with ore, and we will stockpile when we start until the stocks on the furnace dumps or at the furnaces are diminished by reason of use during the close of the Lake Superior season.

Q. What method of concentrating do you use in this Iowa property, Mr. Goltra?

A. Strange as it may seem, we use hot air.

Q. Is that a novel method?

A. It is an absolutely new method so far as I know. I never heard of it elsewhere.

Q. After putting it through this concentrating plant and using four tons of this crude material to make one ton of concentrates, what is the output of this plant, Mr. Goltra?

A. It is by far the best iron ore for basic steel purposes that is produced anywhere.

Q. What kind of ore is this in its crude state? Is it hematite or magnetite?

A. It is brown hematite.

Q. Containing any combined water?

A. Yes, about 12—and as high as 13 or 14 per cent.

Q. Containing also some hydroscopic water?

A. That is the combined water; the free water runs somewhere along about 10 or 12 per cent.

Q. 12 to 14 per cent. of combined water, if I understand you correctly, and about 10 to 12 per cent. moisture?

A. I should say on an average, 12 per cent. of combined moisture, and about 10 or 12 per cent. of free moisture.

MR. DICKINSON: While you are on that point, suppose you have him give the iron content of the finished product.

MR. REED: I am just about to get to that.

By MR. REED:

Q. Now, coming to your concentrates, tell us first, if you please, what is the average iron content of your output.

A. The average would be in the neighborhood of 56 to 57 per cent. That is natural, so far as delivery to the furnace is concerned.

Q. Does your output contain any moisture of either the free or combined kind?

A. Not sufficient to be worthy of consideration.

Q. It is less than one per cent.?

A. Possibly less than one-half of one per cent. of combined moisture is still in the ore.

Q. So that the natural and the dry analyses are practically the same?

A. On the concentrated ores.

Q. How does your output analyze in phosphorus?

A. About .08 to .09 or .10; somewhere between .08 and .10.

Q. Useful ore for making open hearth steel?

A. The very best.

Q. How does it range in sulphur?

A. The sulphur is, by reason of the process, naturally, almost nil; that is, it will contain .01, say, for instance.

Q. It is pretty well got out by this process?

A. Yes; it is not sufficient to make it of consideration in the matter of the selection of coke.

Q. What is the texture of your concentrate?

A. Porous, and there is no fine slimy material in it, such as is in the Mesabi.

Q. It is not powdered like the Mesabi?

A. Not powdered like the Mesabi; no, sir.

Q. That makes it pretty desirable for furnace use, does it not?

A. As to physical characteristics it has been pronounced by Mr. Thompson, formerly president of the Republic Iron & Steel Company, and now president of the Inland Steel Com-

pany, the finest ore for blast furnace purposes that he has ever seen in his entire experience.

Q. After coming from your concentrating plant, what is the nature of this ore from a chemical standpoint? Is it still hematite?

A. It is a red and blue hematite, by reason of the moisture. The combined moisture being eliminated, it will be a red or blue. At the same time, it is not such as is the red ore of the South, owing to its physical structure being honeycombed.

Q. It is better for furnace use than the hard ore of Birmingham?

A. Yes; the amount of coke to produce a ton of pig iron from such ore is very much less than from the ore itself before it has been through the process, even if it was clean pieces of ore, with none of the clay matrix absent from it.

MR. DICKINSON: Are you speaking of your ore?

THE WITNESS: Yes. What I am trying to convey, gentlemen, is this: that if you were to go and pick out a piece of ore and wash it so that you had pure brown hematite, with none of the clay about it at all, it would take a greater amount of coke to produce one ton of pig iron with that ore than with the ore after it has been through our process.

By MR. REED:

Q. Now, have you any objection to stating for our benefit in this case the cost to your company of mining this ore in its crude state, delivering it at the concentrating plant, putting it through the concentrating process, and putting it on board cars for shipment to the furnace?

A. In view of the fact that we are protected by letters patent, I see no objection to making the statement, and our figures show, with combustible at $2.70 per ton, which is the price that obtains at Waukon, which is the name of the place nearest to the mine under discussion, our cost delivered on cars ready for shipment is about 75 cents.

Q. Per ton of concentrates?

A. Yes, shippable ore.

Q. The most important item in your operating expenses, I infer, is coal, is it not?

A. It is not the most important; of any one single item it is the largest, but to take all the others combined, it would not be equal to the amount of combustible cost.

Q. Suppose you were getting your coal for $1.50 a ton, would your cost be substantially reduced?

A. Yes.

Q. Of course, if you were getting it for $3.50, it would be substantially increased?

A. It would be increased, yes.

Q. Does this figure of 75 cents per ton of output include the mining cost of that ore?

A. Yes, it is all open mining, with no stripping, and the shovels simply raise the ore and put it in the mining car, and it is immediately put through the process.

Q. What are the freight rates on this concentrate which you produce from Waukon, Iowa, to Milwaukee, Wisconsin?

A. To Milwaukee they are $1.

Q. What are they to Chicago?

A. To Chicago $1.

Q. That includes switching charges?

A. That would include a switching charge of not to exceed, I think, 12 or 12½ cents. I am not sure, but that is about it.

Q. To what points have you been shipping your output?

A. We have shipped ore to the Thomas Furnace Company of Milwaukee.

Q. And have you been able to lay down that ore at the furnace plant for the $1.75?

A. That particular shipment I would not be able to say; I would have to refer to the books.

Q. Do you expect to be able to deliver ore at Milwaukee and Chicago this winter at such a cost?

MR. DICKINSON: I object to that as being only a prophecy, and not based on any facts.

THE WITNESS: We expect to deliver ore next season at those figures; yes, sir. We have been stockpiling; that is, mining and concentrating, and put in stock preparatory to shipping until the stocks at the furnaces in Chicago have been depleted by use during the winter.

By Mr. Reed:

Q. Mr. Goltra, have you ever put any of the brown ores from Texas through this concentrating plant of yours?

A. Yes, sir.

Q. Under what circumstances and at whose instance?

A. A syndicate, who are contemplating the materialization of a steel plant at Houston, Texas, and who have acquired ores in the Texas field, went before the State authorities, Governor Colquitt and the Secretary of State, and requested that they appoint a commission to mine and ship to Waukon, Iowa, at our concentrating plant, the Texas ore of northern Texas, which was done. The ore was mined under the supervision of Dr. Phillips, who was the director or is the chairman of the Bureau of Technology of the State University in Austin, Texas, and shipped to Waukon, and was there put through our plant.

Q. When was this done?

A. This was done early; the ore was mined early in the summer, I think it was, and owing to the unusual rainfall, which washed out the roads out there, the ore did not get to Waukon, the cars becoming scattered, it being a whole train load; the ore did not get up until some time later, and when it was all assembled this Dr. Phillips came there and broke the seals on the cars and it was then put through the process, put through the plant.

Q. What care had been taken to select the best of the Texas ores, if you know?

A. I know there was no care taken.

Q. Had the ore which was shipped to you from the Texas field been concentrated or screened in any way there?

A. It had not.

Q. Did it carry much dirt and refuse with it?

A. It carried anything from the grass down.

Q. It included the grass, did it?

A. It had grass, little pine trees in it, which caused some trouble, owing to getting into the down-cover.

Q. What did this mixture analyze in iron, with pine trees and ore and dirt and everything else?

A. The whole thing analyzed 33 per cent.; that was the average metallic content.

Q. When you say metallic content, you mean iron content?

A. Yes, sir.

Q. Did you put that through your process of concentration?

A. Yes, sir.

Q. With what result?

A. Raised it from 33 to 54 per cent. metallic content, and some of it as high as 60 per cent.

Q. That is, the concentrates ranged in iron content from 54 to 60 per cent.?

A. Yes, sir.

Q. And there again, was there any substantial difference between the natural analysis of the concentrates and the dry analysis?

A. No, sir.

Q. It carried no moisture, to speak of?

A. No, sir.

Q. What was the texture of this Texas ore after it had passed through your process?

A. Practically the same as the Waukon ore.

Q. It was porous?

A. It was porous.

Q. Not powdery?

A. No; it was porous, the physical characteristics being the same as I have described heretofore in speaking of the Waukon ore, being free from slimy fines.

Q. Was it free also from the powdery ore which distinguishes the Mesabi?

A. All concentrated brown ore, unless it were put in a mortar and purposely crushed, would be a coarse ore. It breaks in that manner.

Q. So that from the point of view of structure it is a desirable ore for furnace use?

A. The very best.

Q. How about the other constituents of this concentrated

Texas product? Were they good, from the standpoint of the blast furnace operator?

A. The only improvement that I can think of would be to have the ore contain a little less silica; and if Bessemer iron was wanted, free from phosphorus.

Q. It is a non-Bessemer ore, is it?

A. It is a non-Bessemer; it is a basic ore.

Q. What is the silica analysis?

A. From the trainload of material put through up there, I believe the silica was 12 or 13 per cent. I am not positive about that, but that was about what it was.

Q. That is something less than the Birmingham ores run?

A. The Birmingham ores are very high in silica.

Q. Much higher than that?

A. Oh my, yes.

Q. What did it cost to put this Texas ore through the process?

A. The Texas ore would yield stronger than our ore, and consequently the price would be within the 75 cents.

Q. Did it cost more to put it through the concentrating plant than to put a similar quantity of Iowa ores through?

A. Naturally, yes; because we had to shove the ore, so to speak, through the back end of the plant; that is, the ore came in on the Chicago, Milwaukee & St. Paul Road, and car by car it had to be pulled up to get to the back of the plant toward the mine so as to begin to put the thing through. But if I understand what you seek by your question, the cost to put through the Texas ore, if we had a great supply back of us, would be less than to put through the Waukon ore.

Q. That is what I meant.

A. Yes.

Q. If you will assume your plant located in the same relative position to the Texas deposits as it is in fact located to the Iowa deposits, would it cost more or less per ton of product to work on the Texas ore than on the Iowa ores?

A. I am assuming that in making your inquiry you desire to know whether, if a plant such as we have at Waukon, were located in Texas, we would make concentrates as cheaply in Texas with that process as we make them now at Waukon?

Q. That is exactly my question.

A. My answer is we would make them very much cheaper, for two reasons. Shall I go into this?

Q. Yes.

A. First, because the Texas ore seems to be richer; and second, because we would use Texas lignite for our combustible, which underlies the deposits of the Texas ore, and is very much cheaper, naturally, than the combustible which we now have to bring by rail several hundred miles.

Q. Have you been down in Texas in these ore fields?

A. I have.

Q. What examinations, if any, have you made of the Texas ores?

A. I have been over pretty generally Marion and Cass Counties, and throughout the Jefferson district, on horseback, on foot, by wagon; and I have spent considerable time in examining the fields there.

Q. What estimate of the tonnage of the ores of that district have you made?

A. My estimate of the tonnage is something in excess of 500,000,000 of tons of recoverable ore.

Q. Going back to the concentrates in this plant in Waukon, how do those concentrates compare with the average ore now received in Chicago from the Lake Superior mines? I am speaking of the Iowa and Texas concentrates that you have made; if there is any difference, please point it out.

A. The average metallic content, that is, iron metallic content, of the ores used in the Chicago and the Valley District and the Pittsburgh district for the last year I think was just about 50 per cent, as it went into the furnace.

Q. That is the natural analysis?

A. That is just exactly what they put in the furnace. Of all the ore they put into the furnace 50 per cent. of it would be metal. I do not mean to disparage the iron ore holdings, as they have a great advantage in mixtures, but ten years ago the base of metallic content was about ten points higher than it is now; in other words the base now is 51½ per cent.

Q. It used to be about 60?

A. It used to be about 60. That means that the ores are rapidly coming down.

Q. In average metallic content?

A. In average metallic content.

MR. REED: You may cross examine, Judge.

CROSS EXAMINATION

By MR. DICKINSON:

Q. This concentration which you have referred to, that has been applied to the Iowa ores and Texas ores, is a patented process, is it not?

A. Yes.

Q. When was that patent taken out?

A. We have been granted, I think, five separate patents, running over a period, I should say, of from 1908 or 1909 until here recently. I cannot recall the exact dates of the issuance of the patents.

Q. They were all supplemental to each other and in the same line of development?

A. All relative.

Q. This began in 1908, the first patent?

A. We began our operations in 1906; that is, acquired the property, and then the Roosevelt panic came on and we ceased during 1907, and in 1908 we began operations again.

Q. What panic did you say that was? I did not catch it.

A. The Roosevelt panic, I have heard it expressed.

Q. How long have you been concentrating ore? When did you first begin to produce results?

A. In about 1908 we began to get ourselves, so far as the process was concerned, in shape to be able to do business. Would you permit me to explain? It may save a lot of time.

Q. I am perfectly willing that you should make any explanation you desire.

A. We started out originally, Judge, to try to find a new method of concentration of low grade brown ores, realizing that there was a tremendous amount of such material, and that if a process could be found which would cheaply and in a better manner concentrate the ores, it would be valuable, and,

as stated, in 1908 we began improvements, and as we saw that we would have to improve, while we might have gone ahead shipping as we were, we did not, but tried for better things, and have continued to try ever since.

Q. It has been in a constant state of experimental progression, has it not?

A. It has been in a constant state of progression from the standpoint of improvement of the ore. We started with an entirely new idea, namely, that there were two fundamental facts in connection with the improvement or beneficiation of these low grade ores, namely, that either they must be concentrated all dry or all wet, and as we proceeded new things—we having elected the dry—new things kept coming to us suggesting improvements. As I stated, we could have shipped ore, but we did not ship ore, being desirous of improving our process and getting it as efficient as possible.

Q. You are interested in those patents, are you?

A. Yes, sir.

Q. Up to this time how much steel has been made out of iron concentrated by that process?

A. I don't know.

Q. Has any, that you know of?

A. I cannot say whether the pig iron which has been made from the ore has been put into steel or not.

Q. Well, up to this time how much pig iron has been made out of these concentrates?

A. I should say that there has not been to exceed—I don't know how much we shipped to the Thomas furnace, but I should say that there has not been more than 15,000 tons at the outside. I should say that it would probably be less than that.

Q. What have been the total shipments and sales in the market of those concentrates up to this time?

A. I say, 15,000 tons would be the outside.

Q. I understood you to say that 15,000 represented iron?

A. No, sir; I meant to say ore. I said I did not know how much ore had been shipped to the Thomas furnace, or how much pig iron had been made, but as you will see, you would

get a little more than a ton of pig iron for two tons of ore. Therefore, if they had shipped 15,000 tons of ore that went down to the Thomas furnace, there would be something like 7,000 tons of pig iron.

Q. Then, so far as you are able to state, why, there are 7,000 or 8,000 tons of pig iron made out of those concentrates from the time you began the process up to the present time?

A. Not to exceed that.

Q. That, then, up to the present time has not had any appreciable effect upon the steel industry, has it?

A. The amount is so small that I should say that it would have no appreciable effect upon the industry, so far as yielding a large product is concerned, because that is a small amount.

Q. Now, take this 75 cents, which you speak of in connection with that reduction or concentration; did that allow anything for the cost of the ore, or just the operating expenses?

A. That is the operating expenses.

Q. Alone?

A. Alone.

Q. And if that process were applied to other ores, why, of course, you would have to take into consideration the cost of the ore?

A. Certainly.

Q. Whatever that might be, and that would vary according to varying conditions?

A. Certainly.

Q. Now, this Texas ore that you spoke of, that was an experimental matter, purely, wasn't it? I mean by that, you would not call it a commercial transaction; it was a step taken to see what would be the result of your process as applied to Texas ores?

A. The object of it was for the purpose of determining the value of a holding of Texas ore in the ground, where it was to be placed into a corporation, and the value of the ore in the ground would depend entirely, as you will see, upon how valuable or how rich an ore it was susceptible of being made.

Q. How far has that plan progressed in Texas toward marketing these ores? You say a company bought some land there?

A. I am told—this will have to be hearsay——

Q. Oh, well, I don't want any hearsay. I just want to know whether you know that they have bought the land.

A. I know they have bought lands, and I have the best reason to believe that they have acquired about 30,000,000 tons of ore already, and are negotiating now for about 120,000,000 tract over west of the present tract that they have acquired.

Q. You say you know that other than by hearsay?

A. I have been there on the property.

Q. You have been on the property, but did you take part in those negotiations?

A. I was present at the time when this gentleman that represents the syndicate was negotiating with a Mr. Featherstone, who represented the company that owns this other tract that I have just spoken of.

Q. Yes, but did you have anything to do with the consummation of any trade by which they acquired it?

A. No, sir; I was present and heard the negotiations going on.

Q. The preliminary negotiations?

A. Yes, sir.

Q. But as to whether they have resulted in any transaction of your own knowledge, do you speak?

A. I do not know of my own knowledge whether the proposition which has been made to them has been accepted or not.

Q. Have these foreign people yet entered into a contract about your patent?

A. The foreign people have not, but the people who represent the foreign people here have approached us and have gotten from us, that is, the Missouri Iron Company, an arrangement for the use of the process on those ores.

Mr. Reed: That is, the Texas ores?

The Witness: Yes, sir.

By Mr. Dickinson:

Q. You say the representatives of the foreign people?

A. Yes, sir.

Q. Is that in the nature of an assignment of the patent, or have you assigned——

A. (Interposing) No, sir; on a royalty basis.

Q. Has that transaction been completed? That is to say, has it taken the form yet of a completed contract?

A. It has taken the form of a written contract. They are to do so and so, and upon so doing, then they will be able to use the process.

Q. Then they are to do certain things as a condition precedent?

A. Yes, si

Q. Those conditions have not taken place yet?

A. They are doing now the various things which the Missouri Iron Company stipulated that they must do in order to be able to use the process.

Q. But they have not yet put themselves in the position, either in respect to the land or the contract, to begin now the utilization of your process, have they?

A. The plant is not completed yet.

Q. Have they begun to build a plant?

A. They have acquired the site at Texas City; they purchased it from the Texas City Company, I think that is the name, and took me down and showed me the site.

Q. So, really, then, there has been no concentration of Texas ore that you know of, other than this trainload that came up to your plant at Waukon?

A. With the exception of the ore which is now being shipped out of Port Bolivar to Philadelphia.

Q. Is that concentrated under your process?

A. No, sir; that is hand concentrated.

Q. But I mean under your process?

A. No, sir.

Q. That is a different thing, the hand concentration?

A. Yes, sir.

Q. Quite different in results?

A. Yes, sir.

Q. And in commercial values?

A. Yes, sir.

Q. Not comparable to yours?

A. It is more expensive.

Q. It could not stand up against it in competition, could it?

A. I do not think that it could.

Q. If it could, there would not be much value in your patent, would there?

A. I would think not.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. And if the present hand-picked Texas ore, concentrated in the crude manner in which it has been, can be sold in Philadelphia at paying prices, it is a pretty safe guess that your concentrates can be sold there with commercial success, isn't it?

A. Of course it logically follows.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. You have not meant to say, have you, that this hand-picked ore is being sold in competition with other ores in the market?

A. The only thing I know is what I saw, of course. That is, that they were putting the ore in the pockets at Port Bolivar; the Santa Fe Railroad have established large ore pockets there, the same as at the shipping points on Lake Superior, and the trains are brought down there with the ore and dumped in the pockets, and from the pockets it is shot into the vessels, the same as they do on the upper range.

Q. Did you see them shooting it into the vessel?

A. I was there when they were putting it into the boat, into the vessel.

Q. How much did you see put in?

A. The vessel there, they claimed that it held 7,000 tons; I had no reason to dispute the hold of the vessel.

Q. I just wanted to know how long you were there, and how much you saw?

A. It took a very short time to run the cars up and shoot the ore in. I was there a day, but they could load, they had facilities for loading probably twelve or fifteen thousand tons in a couple of hours.

Q. How many days were you there?

A. This is over on the point, and you go from Galveston over and get back to Galveston that night. I don't remember how many times I have been there, Judge.

Q. I am speaking, now, of what you saw as to the shipment of ore.

A. I suppose we got over there about ten o'clock, and I suppose we left there about three o'clock.

Q. Mr. Goltra, do you know anything about how much Texas ore has been sold in the United States, or anything about the price of it, of your own knowledge?

A. How much Texas ore has been sold in the United States?

Q. Yes.

A. I could not give you the tonnage. I do not think anyone knows.

Q. And you have not undertaken to give any testimony as to that ore being sold in competition with any other ores in any of the markets in the United States, have you?

MR. REED: I did not ask for any, Judge, and I think the record shows that he did not.

MR. DICKINSON: I think there is an implication. The question was conditional, to be sure, but I want to get at it exactly.

THE WITNESS: I will answer the question. I think that this plant for which the money has been raised, that is to be materialized at Texas City, will produce pig iron from the Texas ores cheaper than any iron can be produced by any concern in the United States at tidewater.

By MR. DICKINSON:

Q. You have answered the question quite differently from anything that I asked you, and I will now ask you to answer what I did ask you.

(By request, the stenographer repeated the question referred to as follows:)

"Q. And you have not undertaken to give any testimony as to that ore being sold in competition with any other ores in any of the markets in the United States, have you?"

THE WITNESS: My answer, naturally, would be at this sitting—just what do you refer to, Judge?

By MR. DICKINSON:

Q. I am referring to the ores that have been sold.

A. I think you do not understand my question, Judge.

Q. I am not being questioned. I am doing the questioning, and if you do not understand my question, I will try to make it plain to you.

MR. REED: That is what he asked you to do, Judge.

By MR. DICKINSON:

Q. What I want to know is: Do you know of your own knowledge that Texas ores have been sold in the eastern market in competition with any other ores?

A. I know that Texas ores have been sold in the eastern market. Whether it is in competition or not will have to be inferred, of course.

Q. Just tell me the year and the time, and who made the purchase, and what the price was?

A. The year was this year; the time was just a short time ago; the price I do not know; and the point of delivery was Philadelphia. All of the information, I think, was given in the Houston Post at the time, I believe.

Q. And what you are giving now, then, is information derived by you from the Houston Post?

A. No, sir. I stated that the Houston Post gave complete information relative to it. I think it was the Houston Post.

Q. Mr. Goltra, did you have, yourself, any personal knowledge derived from participation in that transaction by which you are enabled to state that you know, other than by hearsay, that the Texas ores have been sold in the eastern market here?

A. Why, I certainly had the greatest interest in the world, Judge——

Q. I did not ask you about your interest. I asked you about your knowledge.

A. I think you did ask me about my interest.

(By request, the stenographer repeated the pending question.)

By Mr. Dickinson:

Q. Now I want to call your attention to the fact that I am not asking you about your interest, or any development of your business, or any prophecies or prospects, but I am asking you what actual knowledge you yourself have, if any, with regard to sales that have taken place in the eastern market, of Texas ores?

A. 7,000 tons, as I stated before—I did not weigh it myself—was put in a vessel at Port Bolivar from the ore docks built by the Santa Fe Railway System and taken to Philadelphia points to be made into pig iron there. Whether it was furnished gratis, or what the price was, Judge, I don't know. That is all I do know of my own knowledge, and it all can be confirmed.

Q. Now we will see how much you do know of your own knowledge. What was the name of that vessel?

A. I do not recall it.

Q. Were you there when the vessel sailed from port?

A. No.

Q. Were you there when the vessel arrived at the eastern port?

A. I was not.

Mr. Dickinson: That is all.

By Mr. Reed:

Q. How do you know it went to Philadelphia, Mr. Goltra?

A. From the report made of the use of the ore at Philadelphia.

Mr. Reed: That is all.

By Mr. Dickinson:

Q. From the report made by whom?

A. By the company who used the ore.

Q. To whom?

A. Made generally.

Q. How?

A. It was of public knowledge. Mr. Featherstone, who represented the company, went down there when the ore was put through, and he made a statement publicly. He went down there to see Mr. Josephus Daniels, the Secretary of the Treasury, and showed him what high quality of iron had been produced from the ore, and got the Secretary interested in the idea of establishing an armor plate works down there at Port Bolivar.

Q. You say Josephus Daniels, Secretary of the Treasury?

A. Secretary of the Navy.

Q. You said Secretary of the Treasury.

A. Did I say Secretary of the Treasury?

A. You did.

A. I meant Secretary of the Navy.

Q. That is all you know about it, is it—what Mr. Featherstone said?

A. I stated that it was an interview given out. It was common report in the press.

Q. And you got your information from the press?

A. In one way. It was confirmed by the press.

Q. In what other way did you get it?

A. I got it orally from the man that mined the ore.

Q. The man that mined the ore?

A. Yes; Dr. Phillips, the director of the Bureau of Technology of the University of Texas at Austin, Texas.

Q. Do you not know that is hearsay?

A. No, sir; because he wrote it in his own handwriting.

Q. All right. That is all.

Mr. Reed: That is all.

(Whereupon an adjournment was taken until to-morrow, Wednesday, November 19, 1913, at 10:30 o'clock a. m.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1916. [redacted] 1917 [redacted] 1919

No. [redacted] 1356

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 21.

DEFENDANTS' TESTIMONY.

FILED MAY 12, 1916.

VOLUME XXI.

INDEX OF WITNESSES.

	Direct.	Cross.	Re-direct.	Re-cross.
Clarence C. Robbins	8349	8356	8363	
William H. Smith	8363	8375	8381	8382
Walter S. Quinlan	8383	8391	8401	
Pliny O. Dorman	8401	8415	8431	8433
Benjamin F. Miles	8436	8453	8469	
Robert Hutchins Jeffrey	8470	8480	8490	8491
Joseph S. Ralston	8492	8501	8510	
Leigh H. Elliott	8511	8519	8535	8537
Julius R. Wemlinger	8544	8551		
Alvin J. Donally	8559	8563	8565	8565
Sydney B. Wight	8566	8573	8574	
Charles Osthoff	8575	8580		
John G. Jennings	8581	8589	8600	
Christopher B. Edwards	8602	8610	8616	8617
Charles W. Scofield	8621	8628		
Charles Moeser	8636	8642	8646	8649
Forrest D. Simmons (Page 8652).				
Albert E. Convers	8654	8662	8667	
John H. Smith	8667	8675	8682	
Samuel D. Latty	8683	8685		
William H. Todd	8693	8697	8706	
Bernard E. Pollak	8706	8717	8722	
William Heyburn	8723	8736		
Charles M. Wambaugh	8763	8768	8785	
Charles S. Rindsfoos	8786	8795		

INDEX OF EXHIBITS.

	PAGE.
Defendants' Exhibits 142, 143, 144	8795

ONE HUNDRED AND FOURTEENTH DAY

EMPIRE BUILDING,
71 Broadway, New York City.

Wednesday, November 19, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. REED.

CLARENCE C. ROBBINS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. At Wickliffe, Ohio.

Q. Where is that with respect to Cleveland?

A. Thirteen miles east.

Q. What is your business?

A. Secretary and general manager of the Cleveland Crane & Engineering Company.

Q. What does that company do?

A. It manufactures electric traveling cranes and Gantry cranes.

Q. What kind of crane is that?

A. It runs down on the ground, with an overhead; it has legs. You might describe it that way. And special heavy cranes of all kinds.

Q. Where is the plant of that company?

A. Wickliffe, Ohio.

Q. How long have you been connected with it?

A. Since September 1st, 1905.

Q. Have you held your present office during all that period?

A. I have, except during the first three years I think I was treasurer, and then for convenience sake there was a change in the office and I was made secretary. I have been general manager since that time.

MR. DICKINSON: You mean you have been general manager all the time?

THE WITNESS: All that time.

By MR. LINDABURY:

Q. Does your company use steel products?

A. We do.

Q. What kind?

A. Plates, shapes, bars, both hot and cold, rails, and a few light sheets, also.

Q. What kind of rails?

A. T-rails.

Q. Does your company do erecting or simply manufacturing?

A. We do some erecting; we try to avoid it when we can.

Q. What tonnage of these materials do you buy per year?

A. 1,500 to 2,500 tons per year I would say.

Q. Did the company begin business at the time you went with it, or was it previously in business?

A. They were in business previous to that time.

Q. Do you know how long?

A. Seven years, about.

Q. Do you buy your supplies from one manufacturer or from more than one?

A. From more than one.

Q. From what concerns do you make your purchases of steel?

A. The Cambria, Jones & Laughlin, Carnegie, and Bourne-Fuller.

MR. DICKINSON: What is that?

MR. LINDABURY: That is a large jobbing house in Cleveland.

MR. DICKINSON: Yes; I did not get the name.

THE WITNESS: And the Otis.

By Mr. Lindabury:

Q. Do you buy any from the Lackawanna?

A. Yes; we buy from the Lackawanna.

Q. Do you buy from the Allegheny?

A. Allegheny Steel, yes.

Q. Do you or not purchase on a competitive basis?

A. We do.

Q. Has that been the case during the whole period of your connection with the company?

A. It has.

Q. Do you have to do with the purchases?

A. I do.

Q. And has that been the case during the whole period of your connection with the company?

A. Yes.

Q. Do you purchase periodically or from time to time as your immediate requirements dictate?

A. Constantly I should say.

Q. You purchase constantly?

A. Yes, sir.

Q. You do not purchase, then, on yearly contracts?

A. Sometimes we do.

Q. Generally which way do you purchase?

A. I believe about—not to exceed one third would be on contracts, not to exceed a third, and probably less.

Q. Are you visited by salesmen of the different manufacturers?

A. We are.

Q. Frequently or infrequently?

A. Frequently.

Q. Do you purchase on their solicitation, or do you ordinarily invite bids on specifications?

A. Well, if we have a certain tonnage to place we generally find out what we can buy for, and the delivery.

Q. In what way do you find out? I mean, from the offers of the salesmen, or from direct application to the manufacturers for quotations?

A. We usually get quotations, either by mail—I would say mostly by mail—or by phone. The salesmen call more as a

periodical visit, I might say, to keep in touch and see what we are doing, because one day we might have considerable tonnage to place and the next day we might not have any.

Q. As a rule you place your tonnage after direct communication with the manufacturers?

A. Yes, sir.

Q. Have you found the quotations that you have received in response to your solicitations to have been uniform, or have they been varying?

A. Varying.

Q. And is that so of each of the articles you have mentioned here?

A. Sometimes they will be the same on some articles and different on other articles.

Q. Would two of them sometimes quote the same price?

A. Yes, they would.

Q. Would the same two quote the same price more than once ordinarily? What I am meaning to inquire is whether there were any two who were uniformly higher or uniformly lower, but always in agreement, or were they generally broken up in their quotations?

A. I would say they were broken up.

Q. What proportion of your tonnage have you bought from the Carnegie, about the percentage?

A. Oh, about twenty to thirty per cent., somewhere in there.

Q. Would that be about the average for the years that you have been buying?

A. Well, that would be hard to say; it would not be over that in any one year; it would be less in some years possibly.

Q. So that the average would be less?

A. The average would be less, if anything.

Q. Is the amount which you purchase from the Carnegie Company now more or less than in the earlier years, or has it run over the whole period since 1905 about the same? I do not mean, of course, exactly, but in a general way?

A. It varies; I cannot state that.

Q. And what has the variation depended upon, price quotation?

A. Price and delivery.

Q. Have you found one concern lower at one time and another lower at another time?

A. Yes, sir.

Q. From whom besides Carnegie have you made your principal purchases; which of the concerns you named?

A. Cambria.

Q. Is there any one of them from which you have bought a higher percentage than another, according as you are now able to recall?

A. Cambria.

Q. You bought more from Cambria than any other?

A. Yes, sir.

Q. And which would be next in the scale?

A. Over a period of years I believe Jones & Laughlin would.

Q. Over a period of years you mean they would be next to Cambria or ahead of Cambria?

A. They would be next to Cambria.

Q. Have there been any periods or any conditions, as you recall, when the variation in quotations was greater than at other times or under other conditions?

A. When a period of prosperity would start in, there would be considerable fluctuation in prices, and when a period of,—I will say when the tendency of the times was to slacken somewhat there would be great variation in prices, more so than usual.

Q. And did that variation obtain in the quotations that the different mills were making; that is, was there greater variation during the period you have spoken of in the quotations between the mills than there was when the market was what we call fairly steady?

A. Yes, sir.

Q. And has the price of these materials varied from time to time during this period too?

A. It has.

Q. As business has been on a boom or on a decline?

A. It has.

Q. Do you remember in which of these products there has

been the greatest variation in quotations, whether in bars or rails or plates or shapes?

A. Shapes seem to hold the steadiest; outside of that there is always more variation than in shapes.

Q. More variation in the others?

A. More variation in the others than in shapes.

Q. They have held steadiest?

A. Yes, sir.

Q. And have the quotations of the different mills to you in shapes been generally closer than in the other products, or have not you noticed that there was any particular difference?

A. Shapes seem to run more steady than any of the other products which we bought.

Q. What I am endeavoring to ascertain is whether you are speaking of the price of shapes over a period of years or of the quotations of the different mills on shapes.

A. Oh.

Q. I am not clear which you meant to indicate.

A. I have been speaking as a general market condition; that is the rule, the price did not vary so much or so quickly as on the rest of our products, but it did vary with the different mills.

Q. There was the same variation in quotations on shapes as on the other products?

A. Yes, sir.

Q. When the market was what you call steady; that is, between those periods of an upward or a downward movement, was there still some variation in the quotations that different mills made to you?

A. Yes; in periods of prosperity the smaller companies were always the highest.

Q. I do not understand from your answer whether you mean to indicate that you regard times when prices are fairly steady as prosperous times, or times when there is a general upward movement; my inquiry had to do with the period when prices were generally steady, when there was not either a boom on hand or a depression. Now, what I asked you was whether, during those periods of general evenness, the quo-

tations as between the manufacturers were still somewhat variant in the prices.

A. They varied; yes, sir.

Q. You spoke of rails; are they what are called light rails or heavy rails?

A. Both.

Q. Do you know what the standard rail is?

A. Standard A. S. C. E. section we used.

Q. What is the weight, if you can state it?

A. From 30 to 60 pound rails.

Q. That is what you buy?

A. That is what we buy.

Q. Aren't they what are generally known as light rails, rails of the weight you mention?

A. 30 and 40 pounds I believe are classified light, 50 and 60 also; we also purchase some 80 pound rails; those are generally classified as heavy, as I understand it.

Q. Have there been fluctuations in the quotations on those rails?

A. Yes, sir.

Q. Considerable?

A. Considerable.

Q. From whom did you get quotations on the rails you bought?

A. Cambria, Carnegie, Bourne-Fuller.

MR. DICKINSON: Are you asking about the 80 pound rails or all of them?

MR. LINDABURY: All of them. I do not understand that the 80 pound rails are the kind we have been talking about. I was speaking of all that they buy.

THE WITNESS: Some other jobbers sometimes; I can not recall their names.

By MR. LINDABURY:

Q. Did I ask you how many tons of rails you buy a year? I think I did not.

MR. DICKINSON: You asked him his entire purchases, as I understood.

MR. LINDABURY: Entire purchases of shapes and plates.

MR. DICKINSON: He said shapes, plates, bars, hot and cold rolled, a few light sheets, T-rails, 1,500 to 2,500 per year, he said.

THE WITNESS: I could not separate it; I don't know.

By MR. LINDABURY:

Q. You do not know about how many tons of rails you buy?

A. I could not separate it from that total; I should say about 100 or 150 tons possibly.

Q. Now, in making your purchases and obtaining your quotations, have you found that the prices quoted depended at all upon the condition of the mill quoting as to whether it was full or not?

A. Yes, sir.

Q. That is, as to whether its order book was full or not?

A. Yes, sir.

Q. What have you found as to that; what effect have you found that it had?

A. It made a great variation in price.

Q. When did a mill quote the better price, when it was full or when it was empty and hungry?

A. When it was generally slack, I would say.

Q. Has or not the competition between the manufacturers for the sale of the products which you buy been keen and active during the period since 1905, as you have observed it?

A. It has.

Q. It has what?

A. The competition seems to be keen; they endeavor to secure the business.

Q. Has that been true during the whole of the period you mentioned?

A. Yes, sir.

MR. LINDABURY: You may cross examine.

CROSS-EXAMINATION

By MR. DICKINSON:

Q. Mr. Robbins, in the year 1905 what tonnage of 80 pound rails did your company buy?

A. I could not answer that.

Q. Did you buy any?
A. I could not answer that.
Q. How about 1906?
A. I can not recall.
Q. How about 1907?
A. I can not recall.
Q. 1908?
A. I can not recall.
Q. 1909?
A. There were some purchases that year, I would say.
Q. Can you give the tonnage?
A. I can not.
Q. Do you know whom you bought it of?
A. I can not tell.
Q. Do you know the price you paid?
A. I do not.
Q. Now, how about 1910? Did you buy any 80 pound rails?
A. I would say yes.
Q. Do you say that you know that you did?
A. I can not be sure of it.
Q. How about 1911?
A. Yes, sir.
Q. How many tons?
A. I do not know.
Q. From whom did you buy?
A. I couldn't tell you.
Q. What did you pay?
A. I don't remember.
Q. In 1912?
A. We purchased some in 1912.
Q. From whom?
A. I don't know.
Q. How many tons?
A. I couldn't tell you that.
Q. What price?
A. I don't know.
Q. How much did you buy in 1913?
A. I don't know.

Q. You don't know whether you bought any or not?
A. I think we bought some.
Q. Do you know the tonnage?
A. I do not.
Q. Do you know from whom you bought it?
A. I do not.
Q. Nor the price you paid?
A. I do not.
Q. Take 60-pound rails; how many tons of those did you buy in 1905?
A. I don't know.
Q. Do you know that you bought any?
A. It is likely that we did.
Q. You cannot say whether you did or not?
A. I cannot say whether I did or not.
Q. How about 1906?
A. I don't know.
Q. How about 1907?
A. Yes.
Q. How many tons?
A. I don't know.
Q. From whom did you buy?
A. I don't know.
Q. What price did you pay?
A. I don't know.
Q. In 1908?
A. I don't know.
Q. Whether you bought or not?
A. I bought some; I do not know whom we purchased them from.
Q. Nor the amount?
A. No.
Q. Nor the price?
A. No.
Q. How about 1909?
A. The same answer.
Q. The same answers to all those questions?
A. Yes.

Q. How about 1910?

A. The same.

Q. How about 1911?

A. The same.

Q. How about 1912?

A. The same.

Q. How about 1913?

A. The same.

Q. If you bought any 60 or 80 pound rails during those years, did you buy them delivered at your office or f. o. b. your place of manufacture?

A. Our usual custom is to ask for quotations f. o. b. our plant.

Q. So that it would include delivery?

A. It would include delivery.

Q. And that would include freight?

A. It would include freight.

Q. And the freight would vary from various points?

A. It would, but they all would not quote that way, and when we figured it we would always take the freight into consideration.

Q. Would the price at which you purchased always include delivery at your plant?

A. Not always, no, sir.

MR. LINDABURY: He said some would not quote that way.

MR. DICKINSON: I am speaking now of 60 and 80 pound rail purchases during any of those years; can you give a single instance where you purchased 60 or 80 pound rails where the contract did not include delivery at your place of business?

THE WITNESS: No, sir.

By MR. DICKINSON:

Q. Now what, in the year 1905, was the percentage of shapes to the entire tonnage that you purchased of all kinds of steel material for that year?

A. I would say about 25 per cent.

Q. Now in the year 1905 what was the total tonnage of your purchases of steel?

A. I couldn't tell you that.

Q. Do you know that it was as much as 500 tons?

A. I do not.

Q. Well, take the year 1906. What proportion was shapes of all your purchases for the year 1906?

A. I would say that shapes would go about 20 to 25 per cent. of our total purchases in all years.

Q. In all years?

A. Yes.

Q. What was the total tonnage of all your purchases in 1906?

A. I could not tell you that.

Q. Could you approximate it?

A. No, sir.

Q. Take the years 1907 and 1908?

A. I couldn't tell you that.

Q. 1909?

A. I couldn't tell that to you.

Q. How about 1910?

A. I could not tell you that.

Q. How about 1911?

A. No.

Q. How about 1912?

A. Well, my first answer would be the best one, about 1,500 to 2,500 tons; that varies, and that is as near as I could give it, as near as I can recall it.

Q. And you cannot say anything more than that?

A. I cannot give any nearer figures, no; some years probably it would drop to 1,500 tons and some years it would go to 2,500 tons; I cannot separate the years offhand.

Q. Did you buy as much in 1903, 1904 and 1905 as you did in 1910, 1911 and 1912?

A. I do not know anything about 1903, 1904, and 1905.

Q. I will ask then about 1905, 1906 and 1907: did you buy as much in those years, respectively, as you did in 1910, 1911 and 1912?

A. We purchased more in 1906 and 1907 than we did in 1908 and 1909, and we purchased more in 1910, 1911 and 1912 than we did in 1908 and 1909.

Q. Now, my question was taking the years 1905, 1906 and 1907, whether you purchased more or less in those years than you did in 1910, 1911 and 1912?

A. Well, in 1906 and 1907 we purchased more, I would say, than we did in 1908 and 1909.

MR. LINDABURY: That is not what he asked you.

(The question was repeated by the stenographer.)

THE WITNESS: No.

By MR. DICKINSON:

Q. You mean to say that you purchased more in the years 1910, 1911 and 1912 respectively than you did in the years 1905, 1906 and 1907?

A. I split mine up; I said in 1908 and 1909.

Q. I know. You have said that two or three times and I have not asked you a word about it.

A. All right, sir.

MR. DICKINSON: The stenographer will repeat my last question, please.

(The question was repeated by the stenographer as follows:)

"Q. You mean to say that you purchased more in the years 1910, 1911 and 1912, respectively, than you did in the years 1905, 1906 and 1907?"

THE WITNESS: Yes.

By MR. DICKINSON:

Q. Now, take the year 1905: do you know now what concerns you bought shapes from for that year?

A. No, sir.

Q. Do you know the quantities that you bought?

A. I do not.

Q. Do you know whether it was under written contracts or occasional purchases?

A. I do not.

Q. Do you know from whom you solicited bids and what the bids were for that year?

A. I assume from the people the names of whom I have given you.

Q. Is that as far as you can give information on that subject?

A. Yes.

Q. Take the same questions for the year 1906.

A. The same would apply in all years.

Q. What did you pay for shapes in the year 1905?

A. I couldn't answer that.

Q. Can you answer that for any of the years?

A. No.

Q. Take plates; do you know the quantities you purchased in the year 1905?

A. I would say our plate purchases would run about 30 to 35 per cent. of the tonnage that we buy.

Q. Is that as near as you could give it?

A. That is as near as I could give it.

Q. But you do not know what tonnage you bought that year?

A. I do not.

Q. Do you know from whom you bought plates that year?

A. The same people, as a general thing.

Q. But you cannot name the ones?

A. I could not, from year to year.

Q. Nor the price you paid?

A. No.

Q. Nor the bids you received?

A. I do not recall that.

Q. If I repeated the same questions as of all the years for plates?

A. It would apply to all years.

Q. Suppose I put the same questions to you in regard to bars, hot and cold, and rails, would the answers be the same?

A. The answers would be the same.

Q. Now, the bids that you have been receiving at various times throughout this period on these various commodities, have they been bids f. o. b. Pittsburgh, or f. o. b. at your mills?

A. They would vary.

Q. But generally how has it been?

A. They varied.

Q. It varied generally?

A. It varied generally.

Q. Sometimes one and sometimes the other? You can not recall the particular ones for any particular year?

A. No, sir.

Q. Or how many of them at any particular time there were, or from whom they were, or whether some of them in which these variations occurred were f. o. b. Pittsburgh or f. o. b. at your mill?

A. Some of our inquiries that we would send out always asked for quotations f. o. b. our plant, and sometimes they would quote that way, and sometimes they would quote f. o. b. their own plant.

Q. But you can not state, now, which they were in these several instances?

A. I can not.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. In balancing their bids, one against the other, did you reduce them to the same basis?

A. Always.

WILLIAM H. SMITH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Mr. Smith, where do you live?

A. In Cleveland, Ohio.

Q. What is your business?

A. We are jobbers of mill, mine, factory and railroad supplies and machinery.

Q. What is the name of your concern?

A. The W. M. Pattison Supply Company.

Q. What are your relations to it?

A. I am vice-president.

Q. How long has that company been in business?

A. We were incorporated in December, 1897.

Q. Was the company in business under some other arrangement before that?

A. No; it was a new company at that time.

Q. How long have you been vice-president?

A. Since the formation of the company.

Q. Have you had to do with purchases?

A. Yes, sir.

Q. Has that fallen generally to your lot?

A. Yes; ever since the concern started. Some of it is done by Mr. Pattison, but most of it is done by myself.

Q. And are you made acquainted with his purchases, those which he makes?

A. Yes; we know each other's business and work together to a great extent.

Q. Is there any particular line that he purchases, or has it been at irregular times?

A. No, we work together on all items.

Q. I see. So his purchases have not been confined to any line?

A. No.

Q. Nor have yours?

A. No, with the exception of steam heating material, which I look after exclusively; that is, radiators and things of that kind.

Q. Which is the largest item you purchase?

A. The largest item would be pipe, boiler tubes, seamless tubing and oil country goods.

Q. And by "oil country goods" you mean chiefly tubing?

A. Tubing, drive pipe, and things like that.

Q. But pipe material, generally?

A. Pipe is the biggest item.

Q. What is your next biggest item?

A. In tonnage, cold rolled steel and shafting.

Q. You also handle spikes?

A. Yes; we buy nails, wire and spikes, track bolts and things of that description.

Q. They go with the rest?

A. Yes.

Q. What tonnage do you handle?

A. Altogether, in the lines I have mentioned, about 12,000 tons a year.

Q. Where is your market? Where does your house sell?

A. We do 80 per cent. of our business in Cleveland.

Q. Where do you do the other 20 per cent.?

A. Around northern Ohio, with the exception that we go to Pittsburgh and Cincinnati selling the railroad trade, and to Columbus.

Q. I judge, from your location and what you say, that you supply shipping, the steamboat trade?

A. Yes; we have a big business with the steamboat trade.

Q. Do you purchase on a competitive basis?

A. Always.

Q. You buy and sell again?

A. Yes.

Q. Does that make it necessary for you to buy close?

A. It certainly does, these days.

Q. Why? Do you have to sell close?

A. Competition is pretty strong nowadays. It always is.

Q. Is the competition in your trade strong?

A. Very.

Q. And has been during the years you have been in business?

A. All the time.

Q. Perhaps this question is not one that you can answer, and if so, you may say so; but I will see if you know. How many competitors—principal competitors, I mean—are you apt to meet in your line?

A. In Cleveland?

Q. In your territory, wherever you sell.

A. In Cleveland we have competition from about ten. No, one failed last week, so that we have one less; about nine, now. Of course when we get outside of Cleveland we meet competition from the other cities—Toledo, Pittsburgh, Columbus, Cincinnati and all over.

Q. Taking pipe first: how do you purchase that? In response to solicitations from the manufacturers, or on quotations?

A. Well, that depends upon what we think of the condition of the steel market. If we think the market is strong, liable to advance, we will go out to the manufacturers and try to contract with them for as long a period as we can. At other times, like the present, we would wait for the men to come around, or, if we need pipe, we would call up the mills and see what was doing.

Q. Are you regularly visited by the representatives of the manufacturers?

A. Yes; ten or twelve of them come to see us quite often.

Q. And, I suppose, without special invitation?

A. Yes.

Q. Is the competition between pipe manufacturers strong and keen?

A. Yes; most of the time.

Q. From how many do you obtain quotations when you are ready to make any considerable purchase?

A. As a rule we would get quotations from six or seven. If we wanted to place a considerable contract we might get bids from ten, perhaps eleven.

Q. Have the quotations you have received during the last ten years been generally variant, or uniform, in response to those inquiries?

A. Well, I should say at times they have been the same, and at times there have been differences of half a point, which would be a dollar a ton, and at other times a variation of one point, which would be two dollars a ton, and at other times that has been varied by the mills giving us a special two and a half per cent., and sometimes five per cent.

Q. Is it the practice of the pipe makers to make public announcement of their changes in prices?

A. Yes; if the price changes we get an announcement sometimes; if it is going down we might get it by letter, but if it is going up we might get it by telephone or telegram, sometimes by letter.

Q. As a rule do you get quotations by card or letter?

A. Yes.

Q. That is, as a rule, do they send out card quotations to you?

A. They send out a printed card showing the base price.

Q. Do you find them all coming at once, or does one lead and the others follow?

A. They are strung along quite a little bit. It is generally a case of follow the leader, sometimes extending for two or three weeks. I know the change that was made about a month ago; it was about two weeks before we got all the changes.

Q. That is, you get a card announcing the change in the price of one manufacturer and then during the next week or two you get cards from the others announcing changes on their part?

A. Yes, sir.

Q. Ordinarily a change to the same price or a different one?

A. Well, the extras, the difference in the price——

Q. I am not speaking now of quotations.

A. You are speaking about pipe cards which the manufacturers send out as the basis for getting the price of pipe?

Q. Yes.

A. Those are all the same.

Q. They follow what you call the leader?

A. Yes, sir.

Q. Would any one concern always lead, or would sometimes one concern send out the card and the others follow, and at other times another concern?

A. Well, sometimes it would be the Youngstown Sheet & Tube, sometimes the National Tube, sometimes Spang-Chalfant, sometimes the Mark Manufacturing Company; I could not say which would be the first in turn, but they come in turns.

Q. That is what I mean; sometimes it is one and sometimes the other?

A. Yes, sir.

Q. And then within the next week or two as a rule the rest follow?

A. Yes.

Q. Irregularly?

A. Yes.

Q. I suppose you do not buy on those quotations?

A. Not if we can help it.

Q. And when you have a considerable contract and ask for quotations, how do they agree with the card?

A. They are always a point to a point and two and a half, or a point and five per cent., sometimes a point five and two and a half back of the printed card which they send out as the basis.

MR. DICKINSON: You mean lower than the card?

THE WITNESS: Yes.

By MR. LINDABURY:

Q. And ordinarily do those quotations differing from the card agree as to more than two or three of the concerns quoting?

A. You mean as to the price that we would get back of the printed card?

Q. Yes.

A. One might be five per cent. back of the card, perhaps two of them might be—one might be a point and five back of the card, one might be a point and two and a half back of the card, and in a period of depression similar to 1904 and 1908, sometimes we get a point and two and a half and a point back of the card.

Q. That is, the variation is greater in times of depression than in ordinary times?

A. Yes, sir.

Q. Does this answer that you gave just now with regard to the character and variation of quotations apply to the period of ten years I have been speaking of; has it been generally about that way?

A. It would apply to practically every year with the exception of a portion of 1907 when we could not get pipe fast enough, and in some cases had to pay more than the card to get it from people we had not been buying from regularly. The same thing in the latter part of 1906 and 1907; the latter part of last year, why, we did not have contracts and we had

to get our pipe from somewhere, and the early part of this year, I think. I think that would be true too, perhaps in 1902, when we had quite a strong market.

Q. The periods you have just mentioned were all what are ordinarily termed boom times, were they not?

A. Yes, sir.

Q. When the mills were over sold?

A. Yes, sir.

Q. And could not make deliveries?

A. That was the trouble.

Q. In the latter part of your answer you stated a date that I either misunderstood or suspect you did not mean to give. You stated the latter part of 1907.

A. I meant the early part of 1907.

Q. There was not any trouble to get deliveries after the first of November, 1907, to the end of that year, was there?

A. No.

Q. If you wanted them?

A. If the mills owed us any in October we got it all.

Q. Mr. Smith, you told us from what manufacturers you asked quotations on pipe. I will ask you now where you bought it; did you buy any from the National Tube Company?

A. Yes, we buy some from the National Tube.

Q. What percentage of your requirements of pipe have you purchased from the National Tube averaging the ten years or such period of it as you can make an average on?

A. I should say from 5 to 16 per cent.; an average of not over 10 per cent.

Q. That is, as of the period of ten years?

A. Yes, sir. I might possibly be wrong in connection with 1902. My mind is not quite clear, but I know that in 1902 and 1903 we bought a great deal of pipe from Spang-Chalfant.

Q. Why haven't you bought more from the National Tube than that percentage?

A. Our principal reason has been that we could buy cheaper from other people.

Q. Has their service been satisfactory?

A. Yes. Last year we gave them more pipe, I think, than

in any year since we have been in business, for the reason they could make deliveries when the other people could not.

Q. And has the quality of their products been satisfactory?

A. Yes; they make good pipe.

Q. Has anything been against them but price?

A. That is practically all.

Q. Do you remember from which of the manufacturers you have made the largest purchases of pipe?

A. I think from Youngstown Sheet & Tube; I should say over a period of ten years we have purchased more pipe from the Youngstown Sheet & Tube than anyone else.

Q. And from which concern have you made your next largest purchases, do you think?

A. We divide our business up considerably. We buy pipe from ten concerns: National Tube, Youngstown Sheet & Tube, Spang-Chalfant, Mark Manufacturing Company, the Central Tube, the Longmead Iron Company, Cohoes Tube Company, Wheeling Steel & Iron Company, the La Belle Iron Company.

Q. Now, see if you can answer my question put a little differently. You said that your largest purchases during the ten years have been from the Youngstown company?

A. Yes.

Q. I ask you from which company you have made your next largest purchase. Now, I will let you answer that in a group; that is, if there have been two or three or more from whom you have made about the same amount of purchases, just couple them that way.

A. I can mention the second one; A. M. Byers & Company of Pittsburgh.

Q. You have spoken of the card changes in prices sent out by the different manufacturers, and of the quotations that you have received when you asked for them, on pipe. I will ask you whether you ordinarily negotiate, after receiving quotations, with one or more of the manufacturers, to get a better price even than the quoted price?

A. We always do that.

Q. And do you succeed ordinarily?

A. Most always.

Q. You most always succeed in getting better than the quoted price?

A. We always get better prices than the card.

Q. I know; you have just told us that; but about the quoted prices, are you ordinarily able to do something better than the quoted price?

A. Yes.

Q. You spoke of handling wire goods. I believe you said that pipe is your largest item?

A. Yes.

Q. Are wire products next, classing them as a whole?

A. No, I think cold rolled steel and shafting would be the next item.

Q. We will take that, then. From whom have you gotten cold rolled steel and shafting?

A. We buy principally from Jones & Laughlin, the Republic Iron & Steel and the Union Drawn Steel Company.

Q. Do you buy any of that from Carnegie?

A. I do not think they make it, do they? The American Steel & Wire Company, we buy a little from the American Steel & Wire, but very little; their prices are always high on that stuff to us.

Q. What percentage of your requirements in those products have you bought from the American Steel & Wire Company during the last ten years?

A. You mean in cold rolled steel and shafting?

Q. Yes.

A. Oh, I would not say we have bought five per cent.

Q. Do you mean that you haven't bought over five?

A. Not over that.

Q. And the reason?

A. The price is not right.

Q. By that you mean in comparison with the prices of others?

A. In comparison with the other people; yes.

Q. Have the prices of the others been in agreement, or have they always been variant?

A. They always vary.

Q. And I suppose, according to a habit you seem to have, you buy from the cheapest?

A. Taking quality into consideration, of course.

Q. I suppose the competition that you have alluded to in your business makes it as necessary to purchase closely those articles as it does in the purchase of tubing?

A. Yes.

Q. Now, your next product is wire goods proper?

A. I rather bunched it; wire nails and spikes, that is, wrought spikes, wire nails, wire and wire rope; of those four we would purchase about 1,000 tons a year.

Q. Have you found the market varying on those too?

A. Yes.

Q. Take nails; they are a pretty closely sold article, are they not?

A. They are sold so close that we do not sell as many of them today as we did five years ago.

Q. Why?

A. Because a great many of the hardware houses are willing to invest $500 or $600 to make $15, and we do not like to invest our money that way.

Q. But you do handle nails?

A. Oh, yes.

Q. You have to?

A. Yes, we have to.

Q. What is the margin of profit on a keg of nails ordinarily?

A. I do not believe it would average over ten cents.

MR. COLTON: Margin to whom?

THE WITNESS: The average profit that a hardware man would get in selling nails.

By MR. LINDABURY:

Q. Ten cents on a keg?

A. Yes.

Q. What variations in quotations on nails have you found between the different manufacturers?

A. Forty cents to one dollar a ton.

Q. That would be how much a keg?

A. From two to five cents a keg.

Q. How long has that been the case?

A. Well, in the early days we had no one to buy from but the American Steel & Wire Company; afterwards the Youngstown came in, and Jones & Laughlin, and the Pittsburgh Steel Products, and occasionally we bought from those people.

Q. The Youngstown Sheet & Tube Company came in in 1903, I believe?

A. Yes, around there.

Q. Do you remember when the others came in?

A. Jones & Laughlin came in after that; I do not remember when Pittsburgh came in.

Q. Lots of them make wire nails now?

A. Oh, yes.

Q. And since they came in has this variation in the quotations been general?

A. Yes.

Q. How much above the quotations of these competitors have those of the American Steel & Wire Company been on shafting and rolled stock?

A. I have known them to be as high as five points, which would be five dollars a ton.

Q. And from that down to what?

A. From that down to two or three dollars.

Q. Has there been active, strong competition, or weak, inactive competition between the manufacturers of these various products which you buy, for the last ten years?

A. Well, the way they come after us, I should say there was pretty fair competition.

Q. And is that characteristic of the whole period?

A. Well, for the last eight years more so than in 1902 and 1903, I think.

Q. It was then pretty fair?

A. Yes.

Q. What do you mean by "pretty fair competition"?

A. Well, with the exception of the one or two strong years that have elapsed, outside of those two years there has always been competition in the articles that we have talked about here.

Q. Has it been strong and active?

A. Quite so.

Q. Or weak and indifferent?

A. Oh, no; there is not much weakness about a steel salesman when he wants business; he will stick.

Q. He will?

A. Yes. I think perhaps the independents, if we might call them that, have been more active from a selling standpoint than the United States Steel Corporation's subsidiaries.

Q. By that do you mean in price quotations?

A. Well, they come after us harder, and they want to know what they have to do to get the business, and if they give a dollar a ton would that do it, and if that would not do it, would two dollars?

Q. You have not found the Steel Corporation's subsidiaries so ready to meet conditions?

A. Well, they have been just a little better lately.

Q. What do you mean by "lately"? Since Judge Dickinson got after them or since the present depression has set in?

A. Well, to go back to the pipe situation, we were enjoying a two and one-half per cent. better price from an independent mill, and their sales manager was in our place and wanted to know why he could not get more of our business, and I told him. About a month ago they gave us that extra two and a half per cent.

Q. They are all very polite and considerate of your wishes just now, are they?

A. Oh, yes.

Q. There is not much difficulty in getting pretty nearly anything you choose about just now, is there?

A. No; if a man had lots of money and lots of nerve today I believe he could make some money.

Q. But there is much nerve lacking?

A. A lot of it, not only amongst us, but amongst our customers; they seem to be afraid to buy anything but exactly what they need, and that is all.

Q. That is the reason you are afraid to buy any more, is it not?

A. That is it.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You say about a month ago the Corporation came down on its price upon pipe?

A. They gave us 2½ per cent. better price than they had been making before.

Q. Did you buy any from them?

A. I think we have since, yes, sir.

Q. How much?

A. A hundred tons or so.

Q. Of pipe?

A. Yes.

Q. At that one purchase?

A. It would be three or four orders, but practically one purchase.

Q. Within what period of time was that?

A. Within the last thirty days.

Q. How much have you bought from others during the last thirty days?

A. We have bought some from the Youngstown Sheet & Tube Company, two or three cars that I know of, 60 tons; we have bought some from Byers & Company.

Q. Within the last thirty days?

A. Yes, sir.

Q. How many tons?

A. Forty.

Q. Any others?

A. I mentioned Spang, Chalfant & Company, did I?

Q. You said you bought 60 from Spang, Chalfant & Company, 40 from Byers and 100 from the Corporation?

A. Yes, sir.

Q. That is all you have bought within the last thirty days?

A. I think so.

Q. 50 per cent. of what you bought in the last thirty days has been from the Corporation?

A. Yes, sir.

Q. At a reduced price?

A. Yes, sir.

Q. What proportion of wire and nails have you been buying throughout this period from the American Steel & Wire Company; what per cent.?

A. I should say 80 per cent.

Q. Throughout the time you have been talking of?

A. Yes.

Q. Are not the prices that you have been quoted on the wire products substantially the same as those quoted in the Iron Age?—I mean the first quotations?

A. Well, speaking of to-day, the quoted price in the Iron Age is $1.60 Pittsburgh; that, with ten cents freight added for the carload freight rate, would make it $1.70 Cleveland. We are buying it from the Steel Corporation at $1.65 Cleveland.

Q. You have mentioned one instance, but I am speaking generally, throughout this period since 1902. Generally how would it run?

A. Generally the American Steel & Wire Company has been lower than the other people.

Q. I am not asking you about their prices as contrasted with those of other people, but I am asking you about the quotations you have received generally on solicitations of bids, as to how they compared with the prices at that time given in the Iron Age?

A. The Iron Age, from our standpoint, is generally a dollar a ton out of the way; sometimes more than that. On a strong market the Iron Age would be practically correct. On a weak market they would be some weeks behind the times.

Q. Are you contrasting that with the prices at which you have been buying?

A. Yes.

Q. I did not mean that. I am coming to that a little later on. I mean the prices that were quoted to you, and then you went shopping, did you not, for business?

A. Yes; we get quotations, but we do not buy such a large amount of wire and nails that we do so much shopping on them.

Q. But there are other products you buy besides wire and nails?

A. Wire and nails and screw stock and shafting, and railroad spikes; those five items would amount to about 4,000 tons altogether; 3,000 tons for screw stock and shafting, and, I should say, about 600 tons of nails and wire.

Q. When you would solicit quotations and the first prices would be offered to you on these solicitations, would they not be substantially the same from the various competitors?

A. There is so little irregularity about the price of nails—we might write three or four people and the prices of two mills might be the same and one might be five cents better; sometimes one is two cents better.

Q. You mean the prices at which you buy?

A. The prices at which we buy.

Q. I am not asking you about that now, Mr. Smith. Is it not a fact that when you start out to make purchases you solicit quotations first?

A. Certainly; that is right.

Q. I understand you to say that you did not buy at those quotations; that you then got lower prices than those quotations? Is that a fact?

A. That might be true of pipe, because we argue around the corner a great deal on that, but on nails there is so little difference that we do not waste so much time on it.

Q. You mean so little difference between the prices offered by the various manufacturers?

A. Yes, sir.

Q. There is so little difference that you trade on one of the first offers?

A. Yes.

Q. You spoke of two being the same; of two mills quoting the same price. Do you mean to say that at no time more than two were the same?

A. The Steel & Wire Company are generally a dollar a ton below the other fellows, with us.

Q. The American Steel & Wire Company?

A. Yes.

Q. Has that been constantly so?

A. It has, for some years.

Q. For a long time the American Steel & Wire Company was the only concern you could buy from, was it not?

A. Yes.

Q. How long did that period last?

A. I should say from 1902 up to 1904 or 1905; three or four years.

Q. Take pipe. It was in respect to pipe, I believe, that you spoke of these cards being sent out?

A. Yes.

Q. The prices on them were all the same, were they?

A. Oh, yes.

Q. By the various manufacturers?

A. Yes.

Q. You would get those, and then you would go to dealing?

A. Yes, sir.

Q. And you always got from some one or the other of those who had quoted you the same price something below what those quotations were?

A. Yes.

Q. You were rather a large purchaser in pipe, were you not?

A. We spent over $400,000 last year for pipe.

Q. The volume of an offer you have to make of purchase has something to do, has it not, with getting a price?

A. I presume so, yes.

Q. And you got the benefit of the size of your trade in your bargaining for price?

A. Perhaps.

MR. LINDABURY: I do not like to interrupt, Judge, but I think the witness was misled by the form of one of your questions into saying "yes" to something that he has heretofore answered "no."

MR. DICKINSON: I do not want to mislead the witness in any way, and I will ask the stenographer to read several of the preceding questions.

(The stenographer read as follows:)

"Q. Take pipe. It was in respect to pipe, I believe, that you spoke of these cards being sent out?

"A. Yes.

"Q. The prices on them were all the same, were they?

"A. Oh, yes.

"Q. By the various manufacturers?

"A. Yes.

"Q. You would get those, and then you would go to dealing?

"A. Yes, sir.

"Q. And you always got from some one or the other of those who had quoted you the same price something below what those quotations were?

"A. Yes."

By Mr. Dickinson:

Q. Do you want to make any changes there, Mr. Smith?

A. Nearly always, I think I should say.

Q. To what?

A. In regard to getting something below the quotations—I will ask the stenographer to read that question again.

(The stenographer repeated the question as follows:)

"Q. And you always got from some one or the other of those who had quoted you the same price something below what those quotations were?"

The Witness: Not always.

Mr. Lindabury: The witness said distinctly that they did not go shopping on the card quotations, but on quotations he got afterwards.

The Witness: Yes.

Mr. Lindabury: You had him say, Judge, without noticing, that when he got the card quotations he went shopping on them, which he did not.

By Mr. Dickinson:

Q. You got card quotations, did you?

A. Yes.

Q. And then you sent out solicitations for other quotations?

A. Yes, sir; to know how much was back of the card.

Q. To know how much you could get below the card?

A. Yes, sir.

Q. And then after you got those quotations, then you went trading?

A. Sometimes.

Q. And sometimes you did not?

A. We would try to size up the market; if it is a very strong market we know it is not much use wasting any time; we get the best we can and let it go at that, and get our goods quick.

Q. How did you size up the market?

A. By the demand from our customers and from general conditions all over the country.

Q. Were there any times when these quotations you solicited would be the same from a number of the manufacturers?

A. Yes, sir.

Q. And you would buy from one of those where the price would be the same sometimes?

A. I do not understand you.

Q. I say, would you size up the market and sometimes, even when the prices quoted to you were the same, buy at one of those prices?

A. Sometimes.

Q. And sometimes you would size up the market and go shopping and get it cheaper?

A. Yes, sir.

Q. And sometimes you would get it cheaper?

A. Yes, sir.

Q. And sometimes you would not.

A. Yes, sir.

Q. Now, take the years 1901 down to 1905; from whom did you buy your seamless tubes?

A. 1901 to 1905 what little we sold we purchased from the Shelby people, I believe.

Q. All?

A. There was no one else to buy it from, was there?

Q. How long before you began buying from any other concern any seamless tubes?

A. I should say up around 1906 or 1907, when we started to buy from the Seamless Tube Company of America, which is now the Pittsburgh Steel Products Company.

Q. And you did not buy from them before 1906 or 1907?

A. They were not in business, I think.

Q. Did you buy any seamless tubes from any other concern than the Shelby Steel Tube Company?

A. I do not remember that there was any other company to buy from.

Q. I mean before you began to buy from the Pittsburgh company.

A. No, sir.

Q. Do you know when the Shelby Steel Tube Company was formed?

A. Back in the nineties, I forget the time, although I used to sell them material.

Q. How far back did you purchase seamless tubes?

A. Ever since we have been in business, 1897.

Q. Now, from whom did you buy seamless tubes in 1897?

A. At that time it was not a thing that cut such a figure Shelby Steel Tube Company of Shelby, Ohio.

Q. And continued on down to 1906?

A. At that time what little we bought we bought from the in our business as it has in late years. The demand for that material has grown right along, and now we have to buy considerable at times.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Smith, do you remember how many times the card price lists in pipe have changed during the present year?

A. Four times.

Q. And last year?

A. Five times, at least.

Q. And the year before?

A. 1911, at least four times.

Q. And the year before?

A. 1910?

Q. Yes; I do not suppose you can remember with exactness.

A. I should say in all years they have changed from four to six or seven times.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. And all made the same changes?

A. Pipe is sold really by the ton, but in order that the jobber can sell it by the foot, which way everybody wants to buy it, it is figured on a price of ten cents per pound or $200 a ton. We have base discounts. If the prices go up we will say we are buying it for 80 off, which, in rough figures, is $40 a ton; they put it up a point, it goes to 79, which would make it $42 a ton, and if they made it 81 it would go down to $38 a ton.

Q. I do not know that you understood my question. You said the card prices sent out by these different manufacturers changed the price variously?

A. They do.

Q. I asked you if the changes were not the same on these cards by the various manufacturers?

A. Yes, all the cards are practically the same.

Q. What size of pipe do you buy?

A. We keep in stock—do you mean the list of the sizes?

Q. From what size to what size?

A. From one-eighth inch to twelve inches.

By Mr. Lindabury:

Q. Were these changes in the card prices changes in the base price or in a published discount on them?

A. In a published discount.

Q. I was trying to reconcile your testimony with that of some others; I see that is where it came. That is, what they

announced was a different discount from some unchanging price?

A. Yes, sir.

WALTER S. QUINLAN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Mr. Quinlan, where do you live?

A. Cleveland, Ohio.

Q. What is your business?

A. Purchasing agent for the National Screw & Tack Company.

Q. How many screw and tack companies are there in Cleveland?

A. You are asking me something that the sales department possibly could answer better than I could. I know there are screw manufacturers, but of varying kinds. We make wood screws, machine screws. There are people that make cap screws and set screws, which we do not make.

Q. What is your relation to the National Screw & Tack Company, or did you state it?

A. Purchasing agent.

Q. How long has that concern been in existence?

A. Since 1889.

Q. How long have you been connected with it?

A. Thirteen years.

Q. How long have you been purchasing agent?

A. For seven years.

Q. What was your duty before that?

A. I had charge of the order department. Previous to that, the time department; time, keeping the pay-roll.

Q. How long did you have charge of the order department?

A. For about a year and a half.

Q. Did your connection with the order department give you

information as to the quotations received or prices paid for the materials furnished?

A. No.

Q. I suppose your duties as purchasing agent for the seven years last past did bring you in touch with those matters?

A. With the sales end of it?

Q. No, with the purchasing.

A. With the purchasing, yes.

Q. Perhaps you did not understand me. My former question was as to whether or not your connection with the order department made you familiar with the prices paid for supplies.

A. In a general way.

Q. Did orders for supplies go through your department?

A. No, the order department had to do with the ordering from our factory of material purchased outside, not our orders for supplies, but orders for materials which we manufactured.

Q. Filling orders?

A. Yes, sir.

Q. Your department had to with the filling of orders?

A. Yes, sir.

Q. You said you made what?

A. Bolts, nuts, rivets, cotters.

Q. And wood screws, I think you said?

A. Wood screws.

Q. What material do you use in the manufacture of those articles?

A. In the manufacture of wood screws, machine screws and what we term small bolts, we use wire rods; we purchase wire rods. For nuts and large size cotters, we use bar mill products.

Q. What is included in bar mill products?

A. What we term nut steel, bolt rounds, and hexagons, not bolt hexagons, but hexagon bars.

Q. Is that for large or small bolts?

A. It is for large bolts and nuts.

Q. For small bolts you use what?

A. We buy wire rods, which we convert.

Q. You use wire products?

A. Yes, sir.

Q. What tonnage of wire products do you use?

A. I do not like to give any definite figures as a matter of competitive information.

Q. Very well, do not do it. Do you mind giving, then, your total tonnage of all steel products?

A. Over 10,000 tons.

Q. Now, I understand you would rather not divide that between bar mill and wire products?

A. I prefer not to.

Q. Do you mind stating of which you make the larger purchases, whether wire products or bar?

A. Wire.

Q. Very much larger, or not far apart? Do not answer beyond what you desire, if it makes any difference to you.

A. I prefer not to.

Q. But your larger purchases are in wire products?

A. Yes, sir.

Q. Do you purchase on a competitive basis?

A. Always.

Q. You always have done it?

A. Yes, sir.

Q. By "always," now, you are speaking of the time since you have been the purchasing agent?

A. Yes, sir.

Q. Have you freedom of action?

A. Absolute.

Q. And discretion in the purchases?

A. No interference.

Q. And make the purchases?

A. As I see fit.

Q. Do you purchase on contracts or from time to time, ordinarily?

A. Both; we buy on contract on an advancing market. When we see a depression, we are not very anxious to contract. I buy on the market say to-day.

Q. Has the competition been active or not in wire products? I will take that first.

A. It has.

Q. Is that statement true of the whole period of seven years?

A. Yes.

Q. I understand what you call rods are included among wire products?

A. We buy wire rods which we convert into wire.

Q. Your bar mill products do not include any rods?

A. No.

Q. So that when you use the term rods it means wire rods?

A. That is the idea.

Q. From how many different concerns do you buy these wire products?

A. From four concerns.

Q. Name them.

A. The American Steel & Wire Company, Jones & Laughlin Steel Company, the Youngstown Sheet & Tube Company, and some from the Grand Crossing Tack Company. I might say I inherited that Grand Crossing Tack purchase, but the company made the purchase; and I have bought some tonnage from a concern in Pittsburgh, the name of which I cannot recall, that had some connection with the Page Woven Wire Fence Company.

Q. Have you obtained quotations from additional concerns?

A. We have.

Q. What is your practice when you are ready to buy in regard to obtaining quotations or ascertaining market conditions?

A. I usually make inquiry in person or by letter.

Q. From whom?

A. The American Steel & Wire Company, Jones & Laughlin——

Q. (Interposing) The steel companies that you named?

A. Yes, and in addition from the Cambria.

Q. You did not mention the Cambria a while ago; you have not purchased from the Cambria?

A. We have not purchased any.

Q. But you have obtained quotations?

A. Yes.

Q. Ordinarily?

A. Frequently; not always, but frequently.

Q. From about how many concerns on the average have you obtained quotations on these wire products?

A. On the average, four to five.

Q. Have they been uniform or varying?

A. Varying.

Q. Is that true of the whole seven years?

A. Always.

Q. Have you, since I saw you in Cleveland last week, refreshed your recollection at all on the subject of those quotations?

A. I have.

Q. What are you able to say as to the extent and continuousness of the variation of those quotations?

A. I mean to say that there has always been a variation, to my mind a considerable variation, in the quotations of various manufacturers on wire rods to us.

Q. Those wire rods are the principal wire articles you buy?

A. Yes.

Q. Do you know whether there has during this period of seven years been any time when all the quotations of the different concerns from whom you invited them were uniform?

A. Never.

Q. Has there been any time during that whole period when any two of them quoted you the same price?

A. No, sir.

Q. Not a single time?

A. Not a single instance.

Q. And how many quotations, approximately, have you had during that period? Just run it over in your mind and give us an estimate?

A. During seven years?

Q. Yes; of the number of quotations covered by that last answer, all of which have varied between every one quoting?

A. I would say from 60 to 100.

Q. What makes you so sure in your mind that there have been no two quotations that agreed during that whole period?

A. The principal reason in my mind is the question of freight apparently; that is one of the reasons.

Q. No, I did not ask you why they varied; I will come to that in a minute; but how are you able to recall that they have varied?

A. It has always been my duty to tabulate my prices; that is for my own further information, and I have never seen that condition you spoke of existing.

Q. You have had it in mind, have you?

A. Yes.

Q. Now, you made some allusion to freight; how has that entered into the matter?

A. We buy our rods f. o. b. cars Cleveland, and every locality has its varying rate.

Q. And had to pay the rate?

A. Yes.

Q. They have quoted you a rate at Cleveland?

A. F. o. b. cars Cleveland.

Q. And each concern had to figure into the price that it obtained the freight?

A. Yes.

Q. And on that account, or some other, the prices that any two have quoted you have never agreed?

A. No.

Q. Which did you buy from?

A. We have bought from the American Steel & Wire largely.

Q. I do not mean just that, but in making your purchases do you have regard to the price quoted?

A. The price quoted, ability to deliver material, and a satisfactory material.

Q. Is it true in rods, as of course it must be in other things, that there is a variation in quality sometimes?

A. Very much.

Q. And is there a difference in service between different concerns, that you have to take account of?

A. Yes.

Q. So that I judge from your answer that the lowest price does not always control; is that true?

A. It could not, in our business.

Q. Quick deliveries count?

A. Quick delivery has a great deal to do with it.

Q. Sometimes could you get that from one better than from another?

A. Yes.

Q. Have you ever observed anything to indicate a price agreement among these manufacturers of wire rods during the years since 1907?

MR. DICKINSON: That is objected to as incompetent because it calls for an opinion and a mere conclusion of the witness without showing what facts operated in his mind to reach that conclusion.

MR. LINDABURY: Please understand that I am asking for your observation as a matter of fact and not your opinion, and then answer.

THE WITNESS: I will say no, sir.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WALTER S. QUINLAN,

the witness under examination at the taking of recess, resumed the stand for further examination.

DIRECT EXAMINATION (Continued)

By MR. LINDABURY:

Q. Mr. Quinlan, have the variations in the different quotations on wire rods increased or decreased since 1907, or have they remained fairly even?

A. I would say that there is not any great difference in extreme variations.

Q. Now, you also mentioned that you purchased bars or bar mill products; what is comprehended in that term?

A. Bar mill products?

Q. I ought not to say that; but what of bar mill products, if there be more than a single product, do you purchase?

A. I have answered that already. Shall I repeat it?

Q. I wish you would, for I do not remember.

A. C. P. nut steel, which signifies cold pressed nut steel; Bessemer bolt rounds, hexagon bars, and there is another small item, half round bars for cotters.

Q. I recall now you mentioned those.

A. Yes, sir.

Q. I think I did not ask you from whom you have purchased those, from what different concerns?

A. I do not believe you did.

Q. Would you mind giving that?

A. The Carnegie Steel Company, Jones & Laughlin Steel Company, the Bourne-Fuller Company, the Republic Iron & Steel Company.

Q. Have your purchases been divided among those companies ever since 1907?

A. Just periodically; at no one time did we buy from all four.

Q. Have there been some years when you have not bought from some one of them?

A. There have.

Q. Well, was that because of difference in quotations?

A. Difference in quotations and conditions, ability to produce what we required, and deliver in time for our requirements.

Q. Have you invited quotations from all of them on these bar mill products during that whole period?

A. At varying intervals.

Q. Do you generally invite quotations from all of them when you want to make a considerable purchase?

A. I do not, for the reason that they are frequently soliciting me.

Q. Do you get, whether you invite them or not, their quotations?

A. I do.

Q. From all of them?

A. Not always from all of them.

Q. Generally?

A. Quite generally.

Q. Do you always get from two or three of them?

A. Always.

Q. Have the quotations been uniform or variant?

A. Varying?

Q. And is that true of the whole period we have been speaking of from 1907 down, that they have been variant?

A. They have been varying.

Q. And have you ordinarily purchased from the lowest bidder?

A. We have.

Q. Have deliveries and quality at times affected the purchase?

A. They have.

Q. But taking all things into account, price, quality and delivery, have you or not purchased on the best offer?

A. I have.

Q. So that your purchases in bars as in wire products have been on a strictly competitive basis?

A. They have.

MR. LINDABURY: The witness is yours.

CROSS EXAMINATION.

By MR. DICKINSON:

Q. How far back do you say that your knowledge of these prices goes?

A. Early in 1907.

Q. Give the date in 1907?

A. I am afraid I cannot; during the first quarter of 1907.

Q. And all that you have said as to prices and quotations on all these articles has been from a period there down to this time?

A. Yes, sir.

Q. And not anterior to that?

A. No, sir.

Q. I believe you stated that your entire tonnage was something like ten thousand tons a year.

A. Are you referring to an average for the last seven years?

Q. No, I am going to ask you about that; I have just asked you what it was for the year 1912.

A. It exceeded ten thousand tons.

Q. Did it exceed eleven thousand?

A. It did.

Q. Did it exceed 12,000?

A. Yes.

Q. Give approximately what it was.

A. That is what I tried to avoid, but if it is insisted upon I will say that in 1912 approximately it was 15,000 tons.

Q. That is of all kinds?

A. Of all kinds of steel products.

Q. In 1907 what was it?

A. 6,000 tons, approximately.

Q. 1908?

A. It was below 5,000 tons.

Q. In 1909?

A. A little above 5,000.

Q. 1910?

A. Approximately 9,000.

Q. Give us 1911.

A. Between eleven and twelve thousand.

Q. Now, this year, up to the present time, how much have you bought?

A. About 14,000 tons.

Q. How much of that is on written contracts, and how much of it is on from time to time purchases as your needs require?

A. All material that has been shipped to us to date has been on contract or contracts.

Q. State with what companies you have contracts for 1913?

A. The American Steel & Wire Company, Jones & Laughlin Steel Company, Carnegie Steel Company and another contract with Jones & Laughlin for different products; two contracts with Jones & Laughlin; one with Bourne-Fuller Company.

Q. Is that all?

A. That is all.

Q. What was the contract with the American Steel & Wire Company, what class of products?

A. That is wire rods.

Q. Is that the only kind of wire you buy, wire rods?

A. Wire rods.

Q. What sizes?

A. From No. 5 rod to and including a 17/32 rod. I will give you every size if you wish.

Q. No, just the outside figures.

A. No. 5, equivalent to about 3/16 of an inch in diameter, to and including 17/32 of an inch diameter, round.

Q. How many contracts have you this year with the American Steel & Wire Company?

A. When I say "contracts" I am referring to verbal contracts, which are the only kind I have made this year, and I have had verbal understandings, which are virtually contracts, either four or five.

Q. So you have no written contracts for this year with any of these parties you have named?

A. No; with the American Steel & Wire Company I have not had a written contract.

Q. But you have had it with some of the others?

A. I have.

Q. I will come to that later. The American Steel & Wire Company; what is the entire tonnage purchased from them under these agreements or contracts or whatever you call them, this year?

A. I would say between 6,000 and 7,000 tons.

Q. Is that wire rods?

A. That is wire rods.

Q. From whom else have you purchased wire rods this year?

A. Jones & Laughlin.

Q. How much?

A. Approximately 2,500 tons.

Q. What percentage would that be from the American Steel & Wire Company?

A. Seventy-five per cent. of our total would be from the American Steel & Wire Company.

Q. Take the Carnegie Company; have you got a written contract with the Carnegie?

A. I have.

Q. What kind of products does that cover?

A. That covers cold pressed nut steel, Bessemer bolt rounds, hexagon bars, and a small tonnage of half round bars.

Q. Have you more than one contract with them?

A. I have.

Q. How many?

A. I have made no contract this year; the contracts are what we might term overlapping contracts made last—no, I take that back; I have one contract made in March of this year.

Q. What tonnage did that cover?

A. That covered from 1,500 to 2,000 tons.

Q. Then you say you had some coming over? Some contracts that were placed last year?

A. Yes.

Q. When was the last contract made last year?

A. In the fall; I would not care to say what month, but in the fall of 1912.

Q. Of these 1,500 or 2,000 tons on the contract this year, and of the deliveries under the contract last year, that have gone over, adding those two together, what percentage does that make of what you have contracted for of that class for this year?

A. That represents approximately 85 per cent.

Q. Now, take Jones & Laughlin; you say you had two contracts with them?

A. I did.

Q. What were they for?

A. One was for wire rods.

Q. What was the other for?

A. Well, say bar mill products.

Q. Take the one for wire rods; what tonnage was that?

A. 2,500 tons.

Q. And for the other, how much?

A. 1,000 tons.

Q. Now, Bourne, Fuller & Company; did you have more than one contract with them for this year?

A. I had two.

Q. What products did that cover?

A. Bar mill products.

Q. What is the tonnage under both of them?

A. 500 tons each.

Q. That is 1,000 tons altogether?

A. Yes; that would not entirely specify it.

Q. How is that?

A. We have contracted, but we have not taken all the tonnage on that contract as yet.

Q. How long did that contract run?

A. It expired the 1st of July, but held open indefinitely.

Q. So that you can take it under the contract?

A. Yes.

Q. How much have you taken under that up to the present time?

A. I would say between three and four hundred tons.

Q. That is Bourne, Fuller & Company?

A. Bourne, Fuller & Company.

Q. What other contract have you had for 1913 with other companies that covers the same kind of products as those covered by the contract with Bourne-Fuller?

A. The Carnegie Steel Company, and one for 1,000 tons with Jones & Laughlin.

Q. Now, you were asked a question where there was a differentiation drawn between your opinion and your observation as to whether or not there had been any combination affecting or fixing or controlling prices, and I understood you to say—and if I am wrong, please correct me—that so far as your observations went you had seen nothing of the kind?

A. You are correct.

Q. You do not pretend to speak beyond what may have come under your observation?

A. I know nothing whatever other than what I come in personal contact with.

Q. And you are not around looking for that?

A. No, sir.

Q. These bids that you took, or the quotations you got, whether upon solicitation on your part or their sending them to you, which ran over this period, for the various kinds of products that you bought, they were made for delivery, were they not, at your place of business?

A. Yes.

Q. And the price quoted by each meant delivery there?

A. You refer now to wire rods?

Q. No, I made it broad enough to cover it all.

A. The conditions are different on wire rods than on bars, so I would like to have the question put again.

Q. You can qualify your answer just as you please.

A. The quotations received on wire rods have always been f. o. b. cars Cleveland; on bar mill products they have been varying, f. o. b. cars Cleveland, and f. o. b. Pittsburgh, with Cleveland freight added.

Q. Some bidding one and some the other?

A. Yes.

Q. In the same offer?

A. Yes.

Q. And that has run variously, has it, throughout this long period of time?

A. It has.

Q. And you cannot state for any particular time what the particular bids were as to each for any particular product, can you?

A. I cannot, from memory.

Q. You would not undertake to do that?

A. No, sir.

Q. Do you undertake to say that throughout this whole period from the first part of 1907 down to the present time, that upon each of these purchases of these various articles you always took bids?

A. I can only answer it this way; that whereas at the time

I have placed contracts or agreements I may not at that particular day receive other bids, but during the week or two weeks I have received other bids. In other words, I may have received two or three bids, we will say aroun l the first of September, and placed my business around the 15th. I am frequently receiving bids. The mails bring bids at varying times whether we are in the market or not, and I always consider them.

Q. And from that you would risk your own judgment as to what kind of prices you were getting at the particular time you made the purchase?

A. Yes, sir.

Q. And you do not mean to say that for each particular purchase you were making that on that purchase you always solicited bids?

A. It amounted to that, Judge, but as a matter of fact I did not ostensibly go out and say I want to buy 2,000 tons or any specific amount and secure bids, but I had bids on file.

Q. And you assumed that they would be the same?

A. I did.

Q. And you assumed that having quoted you a price some time previous there would be no variation even though you might ask at a little later date?

A. I have asked on later dates at irregular intervals.

Q. I understand that, but I also understand you to say that from time to time and on various ones of your purchases, on account of having received bids running over back of that particular time you risked your own judgment as a business proposition, and awarded the purchases to some particular manufacturer; is that a fact?

A. Yes, sir.

Q. You cannot state the number of those transactions, can you?

A. I cannot.

Q. You had a great many transactions, of course, during this time?

A. Yes.

Q. Now, take the first year that you were in business, in

1907; from whom did you purchase the wire that you used that year?

A. May I correct that to rods?

Q. Yes.

A. The American Steel & Wire Company, the Youngstown Sheet & Tube Company.

Q. You confined your purchases that year to those two?

A. Yes, sir.

Q. Do you know in what proportions?

A. I would have to guess.

Q. Well, give your best judgment about it. You can qualify it in any way you please.

A. I would say 500 tons to Youngstown Sheet & Tube and approximately 4,500 to American Steel & Wire Company.

Q. Now, will you come right on with the same answers for 1908; that is to say, from whom you purchased in 1908, and the proportion or the amounts?

A. Judge, I am in better shape to do that for 1907 than for the later years because I was new on the job, and it is very fresh in my memory. I would prefer not to attempt that for the intervening years.

Q. Has the ratio been all along about that same figure, approximately?

A. It has been increasingly great as regards the purchases from the independents.

Q. That was not so for 1913, was it?

A. In 1913, 75 per cent. of our purchases were Steel Corporation purchases, whereas in 1907 it figures about ninety per cent.

Q. Take the year 1912, what companies did you buy rods from that year?

A. From the American Steel & Wire Company, from Jones & Laughlin Steel Company; some from the Youngstown Sheet & Tube.

Q. What tonnage did you get from the American Steel & Wire Company?

A. In 1912 I should say 8,000 tons approximately.

Q. How much from Jones & Laughlin?

A. Approximately 2,000 tons.

Q. How much from the Youngstown Sheet & Tube?

A. I believe about 1,000 tons. No, I am wrong; it would leave very little. I am not clear as to what I purchased from the Youngstown Sheet & Tube in 1912.

Q. Well, you got approximately, then, 80 per cent. from the American Steel & Wire Company during that year?

A. During that year, yes.

Q. Take 1911; about what per cent. did you get from the American Steel & Wire Company?

A. Approximately 80 per cent.

Q. In 1910?

A. Nearer 85 per cent., with an increasing percentage as we go along back.

Q. Bourne & Fuller are jobbers, are they not?

A. They are jobbers and operators.

Q. Do they make wire rods?

A. No, I think you will find that I am buying bar mill products from Bourne & Fuller.

Q. And not rods?

A. They are not manufacturers or jobbers in wire rods.

Q. I understood you to say, and I give you an opportunity of correcting it if I am wrong, that in 1913 you bought of Bourne & Fuller 1,000 tons, the way I have got it, of rods?

A. My impression is that you asked me what bar mill products I had contracted for, and I think you will find it that way.

Q. You are including both then, bars and rods, are you not?

A. No, Judge, I think that question is shown as pertaining to bar mill products where I mentioned Bourne & Fuller.

Q. You can make any correction you want.

A. Judge, I do not want to dispute you, but I believe that was the question.

Q. It is not disputing me. Just put it the way you want to put it.

A. You asked the question, and if you will ask it again.

Q. I cannot remember it distinctly.

A. I know if the stenographer will read it——

Q. It is rather far back. We can save time if I ask the question again.

Take the year 1913; what was the tonnage of rods that you bought in that year up to the present time?

A. Between 10,000 and 10,500.

Q. Now, just state from whom you bought it and the tonnage.

A. Approximately 8,000 tons, between 7,500 and 8,000, from the American Steel & Wire Company; the balance from Jones & Laughlin Steel Company.

Q. I will ask you about bars for the same year—the entire tonnage you bought.

A. During this year?

Q. Yes.

A. From the Carnegie Steel Company approximately 4,000 tons. From Jones & Laughlin my purchases and my receipts are rather far off—I should say about 500 to 600 tons have been purchased on contract from Jones & Laughlin.

Q. And the balance from Carnegie?

A. And from Bourne-Fuller about 300 tons have been received and purchased on contract.

Q. Well, then, about 500 from Jones & Laughlin, and about 300 received from Bourne & Fuller, and about—what did you say for Carnegie?

A. Between 4,000 and 5,000 tons.

Q. Between 4,000 and 5,000 tons from Carnegie?

A. Yes.

Q. That is all your purchases this year in bars?

A. Yes, sir.

Q. What percentage would that be from the Carnegie Company of what you have bought this year?

A. It would run about 80 per cent., I should say, if my figuring is correct.

Q. Please give me the same figures as to your tonnage in bars separately for the year 1912—the tonnage, and from whom you bought.

A. We bought 4,200 tons of bars from the Carnegie Steel

Company during 1912, and approximately 300 tons from other sources.

Q. Take the year 1911.

A. I am not in a position to give that information from memory for previous years. It was approximately 1,200 tons for 1911, and I am not able to say what it was previous to that time.

Q. Would the same percentages run approximately the same?

A. Approximately so.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. What is your age?

A. Past thirty; in my thirty-first year.

MR. LINDABURY: That is all.

PLINY O. DORMAN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. Cleveland, Ohio.

Q. What is your business?

A. Purchasing agent for the Standard Welding Company.

Q. Are you also the general manager of that company?

A. No, sir.

Q. Who is the general manager?

A. Mr. J. C. Manternach.

Q. How long have you been general purchasing agent for that company?

A. Since the company was organized in 1899.

Q. What is the business of that company?

A. Electric welding of metals, the manufacture of seamless steel tubing, steel vehicle rims for automobiles and commercial motor trucks, and various mechanical items, rims and cylinders, and so forth.

Q. How long has the company been making seamless tubes?

A. Practically since its organization.

Q. How long has it been making automobile rims?

A. Probably twelve years.

Q. And has it been making, ever since its organization, all the products you named in your narration?

A. Yes.

Q. What steel products do you purchase in your business?

A. Hot rolled and cold rolled strips, bars, bar mill products, special shapes, largely for automobile wheels and motor truck wheels—or rims, perhaps I had better say.

Q. Did you mention plates?

A. Universal mill plates, not in the wide widths, however.

Q. What are universal mill plates?

A. As I would understand it, it is steel that is rolled on universal mills, which are, so far as I know, not grooved or produced from a grooved roll, as is a bar.

Q. Are they a special article, or are they an article of general commerce?

A. They are a general article of commerce.

Q. Do you buy bars?

A. Yes.

Q. Perhaps you mentioned those; I did not notice whether you did or not?

A. Yes.

Q. Do you buy your cold rolled strips from the bar mills or do you get them from some other kind of mills?

A. From another kind of mill, mills that are known as strip mills.

Q. Are they the sheet and plate mills?

A. No, they would not be. They would be what are known as cold rolled mills.

Q. When you get these from the Corporation from which subsidiary do you obtain them?

A. The American Steel & Wire Company.

Q. Are they manufactured by the wire manufacturers usually?

A. That article, cold rolled strip, is also known as flat wire.

Q. It is a wire product, then, is it not?

A. Yes, as it is known among some of the mills.

Q. What is the tonnage of steel products per annum that you consume?

A. For the last year, the year ending July 1st, I should say it was approximately 21,000 tons.

Q. How has it averaged the last twelve years? Has it been an increase or decrease?

A. Generally speaking, a steady increase; our business started in in a very small way.

Q. Do you remember what it was the first year or two?

A. No, sir.

Q. Could you tell us about it approximately?

A. No, sir; perhaps I could qualify that, a few hundred tons.

Q. Less than a thousand tons?

A. I would believe so.

Q. And the increase has been steady, did you say?

A. Yes.

Q. Fairly even up to this time?

A. Yes, governed somewhat by—perhaps there were two or three periods, I believe, since that time, when the business was not quite of as great volume as the other years.

Q. 1908, I suppose, did not increase over the year 1907?

A. I think that 1908 was one of the leaner years.

Q. What of the steel products do you use most of in your business, bars or plates or hoops or bands, or cold rolled strips?

A. Well, I presume the total of our hot rolled and cold rolled strips and our special shapes would be of about the same amount.

Q. You do not get your special shapes from the same people you get your strips from, do you?

A. No, sir; not entirely.

Q. Your special shapes, I suppose, are made by the bar mills, are they not?

A. Yes.

Q. We will take the cold rolled strips first, then; can you give us an approximation of the tonnage of cold rolled strips that you use?

A. During the last year I believe it would be about—between three and four thousand tons.

Q. So that twenty per cent. of your purchases have been in strips?

A. Of all our purchases, practically one-third would be in either hot or cold rolled strips.

Q. Now, bars and plates; how much of them do you buy?

A. Between two and three thousand tons.

Q. Now we will take up bars and plates first; do you buy any of them from the Carnegie Company?

A. Yes.

Q. I suppose you have got them, so far as you bought from the Corporation, from the Carnegie Company?

A. Yes.

Q. No other subsidiary except the Illinois makes them, and they are not in your territory?

A. No, sir.

Q. What percentage of your bars and plates have you bought from the Carnegie, about, I will say, during the last ten or twelve years?

A. Less than 25 per cent.

Q. Where have you gotten the rest?

A. The Cambria, the Republic Iron & Steel, Jones & Laughlin, Bourne-Fuller Company and Ryerson & Sons.

Q. They have been mentioned before; I do not remember where they are located. Where are they?

A. They are jobbers of steel at Chicago.

Q. It is a very large house, I believe?

A. A very large house, known as a stock warehouse, steel warehouse.

Q. I interrupted you in your answer. Do you think of any others? Do you get any from Jones & Laughlin?

A. Yes; I mentioned Jones & Laughlin.

Q. Had you mentioned them? I did not notice.

A. Yes.

Q. And the Lackawanna and La Belle, and the Youngstown?

A. The purchases from the Lackawanna are very, very few.

Q. Have you been solicited by the different manufacturers of bars and plates from time to time?

A. Yes, sir.

Q. How? Through their salesmen?

A. Sometimes through their salesmen, sometimes by mail—your question was about soliciting—by mail and personal visit principally; once in a while by telephone.

Q. Do the salesmen call on you with any frequency?

A. Not at any regular stated periods.

Q. No, but do they come along about as often as you want to see them?

A. Yes, sir.

Q. Do you ask quotations sometimes when you are ready to purchase?

A. Sometimes; not always.

Q. How do you make your purchases, on yearly contracts or from time to time as your immediate needs require?

A. At some times we make contracts for perhaps a six months period; sometimes purchasing in what might be called an open market, that is, without any contract.

Q. What do you mean, you purchase for immediate delivery? Is that what you mean by "open market"?

A. Yes.

Q. As a rule, do you or do you not ask quotations when you are ready to make any considerable purchase? I do not mean, now, a small amount to fill an immediate need, but some considerable purchase. Do you or not, as a rule, take quotations then?

A. That would be governed a little bit by my opinion of the market, and the thought that possibly some mill might

not have as many orders on its books, or that I might obtain a rolling schedule at some mill that would give me fairly good delivery, and I would then see what prices I could get.

Q. Do you keep your weather eye open for a mill that has not a very full order book?

A. I endeavor to do that.

Q. Why do you do that?

A. Because it may sometimes give me a lower price. I may obtain a lower price. Whether that is the reason or not, I am not sure.

Q. Have you found in practice that you could generally do rather better with a mill whose order book was a bit lean?

A. I think so.

Q. Have the quotations that you have received, whether in response to invitations or presented and solicited by salesmen, been uniform or variant in these products of bars and plates?

A. Generally speaking, they would vary.

Q. That is, as between the different manufacturers they would vary?

A. Yes, sir.

Q. And from time to time did they vary; I mean, the prices change between periods?

A. Well, that is generally due to the conditions; if they are very busy, the fluctuations are not quite so frequent as when they are not so busy.

Q. Yes, but what I intended to ask is, whether or not, take one year with another, or one part of a year with another, there was more or less of a change in the general market conditions.

A. Yes, sir.

Q. So that those products would sometimes be generally higher and the quotations higher than they would at some other times?

A. Generally speaking; yes, sir.

Q. Did you buy plates and bars on a competitive basis?

A. Yes, sir.

Q. And what entered into your consideration in determining from whom you should buy?

A. The prices that were quoted.

Q. Is there any other reason than that why you have not given Carnegie more than 25 per cent. of your orders?

A. Sometimes the rolling schedules which they would have for sizes that I would be in the market for would not be entirely satisfactory to my requirements for delivery.

Q. But, generally speaking, were their products satisfactory?

A. Their products were satisfactory.

Q. And, generally speaking, was their service satisfactory?

A. Yes.

Q. So that, speaking generally, by and large, the price was the only thing that was against them when you gave your order to somebody else?

A. No, I said that price might be all right, and I might be under contract. That is what I implied, but at the time I had a specification to place I might be on contract, and I would take up with them to see when they could give me a rolling of one or two sizes, and their rolling schedule might be some two or three or four weeks longer than I wished to wait for it.

Q. And that sometimes affected it?

A. That affected the placing of the order, even though we had the contract.

Q. Did that occur very often?

A. At some periods more than others.

Q. I wanted to know whether that accounts for your placing only 25 per cent. of your business with them, or whether, speaking generally, it was a matter of price that regulated it.

A. Well, it was more frequently the question of not being able to get the early rolling.

Q. Now, take your cold rolled strips; where did you get them?

A. During the recent period or earlier years?

Q. The whole period of ten years, say, ten or twelve years.

A. Spaulding-Jennings Company.

Q. That is a Jersey City concern, isn't it?

A. Jersey City.

Q. Quite a ways from you?

A. Yes; Crucible Steel Company of America; Stanley Works, of New Britain; Columbia Steel Company of Elyria; Superior Steel Company of Carnegie, Pennsylvania; American Steel & Wire Company of Cleveland.

Q. Have you bought your strips hot and cold rolled on a competitive basis also?

A. Yes, sir.

Q. Has there been competition in these products?

A. Yes, sir.

Q. Between the manufacturers?

A. Yes, sir.

Q. And has there been active, strong competition in plates and bars between the concerns you named awhile ago from whom you have obtained quotations on plates and bars? Have they also competed?

MR. COLTON: I object to the question on the ground that it calls for a conclusion of the witness on a state of facts not shown in the witness' mind and not disclosed to the court.

By MR. LINDABURY:

Q. You know competition when you see it?

A. Yes, sir.

Q. I ask you what you saw as to whether it was competition or not between those people in the sale of bars and plates?

MR. COLTON: I make the same objection.

THE WITNESS: Competition; yes, sir.

By MR. LINDABURY:

Q. Has it been strong and active?

A. Governed somewhat by the market conditions.

Q. There are times, I suppose, when nobody——

A. (Interposing) When it is not quite as active as at others.

Q. What times were they?

A. When there is very active competition would be when there is not so much business on the books of the different mills.

Q. But when is it least active?

A. That would be when the mills are very well filled up with orders and their rolling schedule well covered.

Q. Have there been times in the last ten years when the mills were filled up with orders?

A. Yes, sir.

Q. Orders were ahead?

A. Yes, sir.

Q. They could not make deliveries for months?

A. Yes, sir.

Q. It is during those periods that you have said the competition was less active?

A. Less active.

Q. Now, I will ask the same with regard to these hot and cold rolled strips. I suppose they are properly classed together. Do you get both the hot and cold rolled from the same people?

A. Not entirely.

Q. Separate them, then.

A. If I understood your question awhile ago, it was as to from whom I purchased cold rolled strips.

Q. Yes; that was what I asked you.

A. And then you asked me about bars?

Q. Later on, yes.

A. Yes. Now, if I understood your question, it relates to hot rolled strips?

Q. No. I will go back and finish the cold rolled strips. You got the cold rolled strips where you said?

A. Yes, sir.

Q. And has there been competition in them?

A. Yes.

Q. Have the prices quoted you by the different manufacturers on them been variant?

A. Yes, sir.

Q. And is that true of the whole period of ten years?

A. Yes, sir; as far as my memory serves me; yes, sir.

Q. And has there been activity among the manufacturers in the sale of cold rolled products?

A. Yes, sir.

Q. How many have been selling cold rolled products, about?

A. How many mills have been selling to our company?

Q. How many in the market sell? Do not name them, but just give the number?

A. Perhaps there are ten.

Q. And from how many of the ten have you made your purchases?

A. During the different periods perhaps seven or eight, or something like that.

Q. Seven or eight?

A. Yes.

Q. And from about how many do you ask quotations when you are in the market to buy, either through their salesmen or by telephone or letter applications?

A. Four or five.

Q. You get the prices of four or five?

A. Yes, sir.

Q. Before you buy?

A. Yes, sir.

Q. Have they usually been variant? I do not know but you have answered the question.

A. Yes, sir.

Q. Now, about the hot rolled; where do you get your hot rolled material? Do you get that from the bar mills?

A. They would come from what I believe are known as band or hoop mills. I am not quite sure.

Q. Do you buy them along with your hoops? You buy hoops and bands?

A. Occasionally.

Q. I mean, do they come together from the same mills?

A. Not entirely. Some hot rolled strips are produced by mills which seem to be particularly fitted for that class of work and produce that character of material.

Q. Is your tonnage of hot rolled strips considerable or is it light?

A. It is considerable.

Q. What do you use the hot rolled strips for?

A. For the manufacture of steel tubing and for felloe bands for automobile rims, and for automobile rims.

Q. You make a good many of those rims, do you?

A. Yes.

Q. Where do you sell them?

A. Principally to the manufacturers of motor cars.

Q. All over the country or in a certain locality?

A. All over the country.

Q. Is your general market wide? I mean, for your general products?

A. Yes, sir.

Q. All over the United States?

A. Small quantities, yes, go the other side of the Mississippi River, for example, but it is mainly in the territory between the Mississippi River and the Atlantic coast.

Q. Have you found the same variation that you have ascribed to quotations on cold rolled strips to obtain in hot rolled strips?

A. That is, as to there being a variation in price and different gauges, widths and so forth?

Q. Yes.

A. Yes, sir.

Q. They come from different mills, as I understand you?

A. Yes, sir.

Q. They do not come along with the cold rolled strips?

A. No, sir.

Q. Is your business in welded tubing considerable?

A. Yes, sir.

Q. Did you speak of making seamless tubes?

A. The welded tubing is seamless tubing.

Q. Is it welded and not drawn?

A. It is drawn.

Q. Why do you call it welded?

A. It is a process of uniting the edges by the application of electric heat, and then, under pressure, at the moment of the heat being right, the edges are united and become homogeneous.

Q. So that they are electrically welded?

A. It is a seamless piece of tube.

Q. When completed, that produces a seamless character of tube?

A. It produces a seamless tube.

Q. That is what I meant by a seamless character of tube.

Where do you get your hoops and bands?

A. Some from the Carnegie Steel Company, the Sharon Steel Hoop Company, and we probably have bought some from Jones & Laughlin.

Q. Have you bought anything from the Leechburg Steel Company?

A. From the West Leechburg Steel Company, yes.

Q. Where is that?

A. Leechburg, Pennsylvania. Also from the American Tube & Stamping Company, Bridgeport, Connecticut.

Q. What percentage of those articles have you bought from Carnegie?

A. Probably not to exceed five per cent.

Q. Have you bought those articles on a competitive basis?

A. Yes, sir.

Q. You have obtained quotations, have you, from different manufacturers?

A. Yes, sir.

Q. Those whom you have named?

A. Yes, sir.

Q. Any others that you did not buy from?

A. Yes, sir.

Q. Have the quotations been variant?

A. Yes, sir.

Q. And have you purchased in general on a price basis?

A. Generally, yes, sir.

Q. How does it happen that the Carnegie did not get a larger percentage of your purchases?

A. From the matter largely of not being able to give us the material as quickly as we desired it.

Q. Well, did the prices they quoted enter into the matter?

A. The price would be satisfactory if we were under contract with them; but at different times when we wanted material they were not able to give it to us as soon as some other mills.

Q. Has there been active competition between the different

manufacturers of these products during the last ten years? I speak of hoops and bands.

Mr. Colton: I object on the ground that the witness has not been shown to be qualified to answer; and on the further ground that it calls for a conclusion upon a state of facts not disclosed to the court.

Mr. Lindabury: I asked not for a conclusion, but for observation, and on the point of qualifications I think he is as well qualified to answer that as he is on anything else.

Mr. Dickinson: That may be true, but it don't prove anything.

Mr. Colton: The same objection.

The Witness: It is my belief, yes.

By Mr. Lindabury:

Q. What has been your observation; have you been solicited by different manufacturers?

A. I guess I used "belief" and "observation" as a synonymous term, perhaps.

Q. Now, what you see you believe, generally, do you?

A. Yes.

Q. Have you seen this competition?

A. As any competition is seen, yes.

Q. I say, you have seen it?

A. As any competition is seen.

Q. How has it manifested itself?

A. By verbal quotations and by letter.

Q. And any visits?

A. Yes.

Q. You have not been neglected by the salesmen, I presume, have you?

A. No, sir.

Q. Speaking of all these products which you have named as having been purchased by you, have you generally accepted quotations which you have received, or have you generally dickered with the manufacturers to see if you could not get a better price?

A. If my opinion, as a few prices were received, within a

period on which my requests went out, or the time that I was in the market, was that the price was right, at least satisfactory to us, I would either buy the bars on specification or I would contract, as was the case sometimes; I would contract for a period. Maybe I do not understand your question.

Q. I think you have forgotten it.

A. Perhaps that is it.

Q. Did you ever dicker with these manufacturers after receiving quotations from them or a visit from their salesmen for the purpose of obtaining a better price than they quoted you?

A. At different times I did.

Q. That is what I wanted to know; and did you do that when you had a large specification, or on your smaller ones?

A. That would be on my largest specifications.

Q. And when you had an attractive specification, what was the result of your endeavor to get a better price, generally?

A. That would vary according to the condition of the business at the mills.

Q. And suppose it was at a time when the mills were not overstocked with orders, say an ordinary period, could you generally or not get a better price by a dicker if you had a good specification?

A. Generally speaking, I could obtain a little lower price.

Q. And if you did it once I suppose that stimulated you to try again?

A. Yes, sir.

Q. Did you try that with some frequency?

A. Now, do you mean as to a specification right in hand or covering several months? That is, if I was successful three weeks ago and then had another specification, or do you mean if I had received a lower price as the result of a dicker right now would I follow it up with a further request?

Q. Not the latter, but the former.

A. In that case, yes.

Q. If you got a man down below his price did you never ask him to go still lower?

A. I don't believe I did.

CROSS EXAMINATION

By Mr. Colton:

Q. The character of plates you purchase, they are more of the bar mill variety, are they not?

A. Yes, probably nothing wider than 16 inches.

Q. That is not the class of plates that are used in structural work and buildings of that character?

A. Narrow universal plates I believe are so used; I would say widths anywhere from seven to sixteen inches.

Q. The widths that you use are not the character of widths generally used in structural building work and bridge work?

A. Many of them are, I believe.

Q. Some of them?

A. Many of those widths are used in structural work, I believe.

Q. Which of those widths are used in structural work, which of the widths used by you are also used in structural work, if you know?

A. I think those widths that I mentioned; as I see work around anywhere I see plates that are in the neighborhood of ten to twelve inches wide.

Q. How much tonnage of plates in widths of ten to twelve inches wide have you purchased in the year 1913?

A. I cannot give it to you on that basis; I have no data that would separate those widths from others.

Q. Your total tonnage in those widths would be comparatively small as compared with your whole tonnage?

A. Yes.

Mr. Lindabury: You mean the whole tonnage in plates?

Mr. Colton: The whole tonnage in everything, I meant first.

The Witness: That is as I understood you.

By Mr. Colton:

Q. Now, as to your tonnage in plates, the higher widths, how does that compare with the whole tonnage in plates?

A. I do not believe I have that question quite.

Q. You said some of the widths in plates were of the char-

acter that are used for building. Now I am asking you whether those that are common both to you and your use, and buildings, what percentage would that constitute of your tonnage in plates?

A. I believe every width over six inches and up to 16 inches is used by structural builders.

Q. Do you use to 16 inches?

A. Yes.

Q. How much is your tonnage all told, approximately? Of course I know you cannot give it exactly.

A. In our purchases?

Q. Yes.

MR. LINDABURY: Do you mind allowing him to answer the question you asked before, what percentage of them that was.

MR. COLTON: I think he has already answered it indirectly by saying that all his sizes were used in some structural work.

MR. LINDABURY: Did he say that his smallest size was six inches?

THE WITNESS: Over six inches. I understand that widths six inches, up to and including six inches, are known as a bar mill size, and over six inches is known as universal plate mill size.

By MR. COLTON:

Q. You use below six inches?

A. Six inches and below.

Q. First, what is your total tonnage in plates from six inches to 16 inches, if you can give it, per year?

A. Probably 60 per cent. of our combined bar and plate mill sizes would be known as plate mill sizes.

Q. Now, for the year 1902, do you know what were the prices of plates ranging from 6 inches to 16 inches and what was the extent of the variations in price as between the different manufacturers for that year?

A. I could not recall that now; our mill purchases of those items in that year or those early years were very small; most of those items were purchases from the steel warehouses, rather than direct from the mills.

Q. How long did that continue to be the case, that you pur-

chased that style of article from the warehouses instead of from the mills?

A. I still buy from the warehouses on small quantities.

Q. Do you still buy a large percentage of that class of material from the warehouses instead of from the mills direct?

A. No, my small quantities are purchased from steel warehouses.

Q. Small quantities of plates ranging from six to sixteen inches?

A. Yes.

Q. When did you first begin to buy plate ranging from six to sixteen inches, from the manufacturers?

A. Possibly in 1902 or 1903; I am not sure about the year.

Q. Now, in 1903, can you give me the prices and the variations in prices as between the different manufacturers for plates from six inches to sixteen inches?

A. I can not.

Q. Can you do it for any year from 1902 to 1910, inclusive?

A. No, sir.

Q. You do not know the extent of the variations in prices as between the different manufacturers for any one of these different years in that class of products?

A. I can not recall it now; no, sir.

Q. Do you recall who quoted the prices on plates ranging from six inches to sixteen inches in 1903?

A. I would not be certain about the year.

Q. Could you name the different manufacturers that quoted you in that year, as a matter of recollection?

A. Somewhere in that period we bought from Allegheny Steel & Iron Company, and La Belle Steel Company at Steubenville, and sometimes from Bourne, Fuller & Company for shipment from some mills; I would not know what mill it came from.

Q. Your memory as regards the variation in prices upon this particular class of plates is very indefinite, isn't it?

A. It would be because I have no data at hand now.

Q. You have had no special reason to direct your atten-

tion to the extent of the variation in the price of that class of plates, have you?

A. No, sir.

Q. And you do not recollect as between the different years as to the extent of the differences in the variations of that class of plates, do you, at any time from 1902 down to the present time?

A. For that I would have to refer to some of these published charts showing the fluctuations of the steel prices.

Q. And if you wanted to find out the market prices, you would go to such published charts, would you not?

A. That would only be as a general approximate guide.

Q. You would go to such charts as the Iron Age, I presume, for such a guide, would you not?

A. Yes, sir.

Q. Now, take bars. What was the price of bars in 1900?

A. I can not recall now.

Q. Don't you recall even that the price of bars was very high at the beginning of the year 1900?

A. No, I could not answer that.

Q. And don't you recall that following Gates' cut in wire in 1900 that there was a cut in bars of something like $20 a ton, and bars went 'way down, shortly before the formation of the United States Steel Corporation?

A. $20 a ton would be two cents a pound; I do not believe there was ever any such price on bars as would allow of two cents a pound reduction.

Q. You do not recall, then, when bars were selling at about $40 a ton?

A. No, sir.

Q. And that they went down to about $20 in 1900?

A. No, sir.

Q. Your purchases were very small at that time?

d A. Yes, sir.

Q. Well, in general your memory is very indefinite in itenard to the variations in prices from 1901 down to and inmost ng 1910, isn't it?

house: As to recalling it now, because I have not looked over

Q. ng that would tend to bring that back to my mind.

Q. And it has passed out of your mind?

A. Yes, sir.

Q. The extent of the variations as between the different manufacturers for the different years is very hazy in your mind at the present time, from 1901 down to 1910, inclusive?

A. You mean as to whether there was a difference of a dollar a ton between different ones; is that what you mean, or as to what the price was?

Q. As to the extent of the variation; that is what I mean.

A. Oh, very frequently there would be a variation of a dollar a ton.

Q. Frequently there would be a variation of a dollar a ton in steel bars?

A. Steel bars.

Q. But there would be several manufacturers, perhaps, that would have the same price, wouldn't there, at times, in steel bars?

A. Undoubtedly there were times when several had the same price.

Q. And there were times when there would be one or more that would vary from the several prices that you knew, or that were quoted to you; is that right?

A. That several have varied?

Q. Yes; several would vary at times?

A. Yes, sir.

Q. And as a rule, the variations during the year 1910 were not over a dollar a ton, were they?

A. I do not remember as to 1910 especially.

Q. Now, you spoke about the condition of the order books as having a good deal to do with what the mills would give you by way of concession from some price. What price did you have in mind?

MR. LINDABURY: He mentioned what it was.

THE WITNESS: From the price that had been ruling or what I had been paying previously.

By MR. COLTON:

Q. From the price that had been ruling? What do you mean by the price that had been ruling?

A. With me.

Q. Ruling with you?

A. At which I had been buying steel for some period before.

Q. And you mean you would get a concession from that same manufacturer from whom you had been purchasing the steel?

A. That has happened at different times.

Q. And when you say "ruling price," you merely mean the particular price that you happened to succeed in placing your last contract at; is that it?

A. Either the contract or the order.

Q. Either the contract or the order?

A. Either the contract or the order.

Q. You spoke of being under contract with Carnegie; what do you mean by that? I can give you the connection in just a minute. That was in connection with hoops and bands. You spoke of the fact that although you were under contract with Carnegie you nevertheless got your tonnage outside. I want to know what you mean by being under contract with Carnegie.

A. I might have had a contract with them for several hundred tons of that character of steel to be purchased during a certain period of perhaps six months at a price which had been mutually satisfactory at the time the contract was written.

Q. Then their deliveries were not suitable, and for that reason you went outside and got your steel; is that it?

A. For some of the items.

Q. Have you any contract with the Carnegie Steel Company at the present time?

A. Yes, sir.

Q. What does it cover?

A. It covers bars and plates.

Q. When was it entered into?

A. I believe about December of 1912 or perhaps January of this year.

Q. And what tonnage does it cover in plates?

A. The two were combined in one contract.

Q. Plates and bars were combined in the one contract?

A. Yes.

Q. What was the total tonnage of both?

A. I believe 1,200 or 1,500 tons.

Q. That was entered into in December or January, 1912?

A. Either late in December, 1912, or early in January, 1913.

Q. What contracts have you for the same period with outside parties, if any, other than the Carnegie, for the same class of material?

A. The Cambria Steel Company.

Q. How many tons were there in that?

A. Probably 1,500; maybe 2,000 tons. I don't recall.

Q. Possibly 1,500; possibly 2,000?

A. Yes.

Q. Anybody else besides that?

A. The Republic Iron & Steel Company.

Q. How much is in that?

A. I think that was 500 tons.

Q. What time was the Cambria contract made?

A. October or November, 1912, I believe.

Q. What is the base price in the Carnegie contract?

A. $1.40 Pittsburgh.

Q. What is the base price in the Cambria contract?

A. I am speaking of bars.

Q. You said the contract covered both bars and plates. You were speaking of bars when you answered $1.40, of course? Now, as to plates; what was its base price?

MR. LINDABURY: Do you mean the Carnegie contract?

MR. COLTON: Yes, the Carnegie contract.

THE WITNESS: The same price on both.

By MR. COLTON:

Q. The same price on both bars and plates?

A. Yes, as I recall.

Q. What was that price?

A. $1.40 Pittsburgh.

Q. Does the Cambria contract cover both bars and plates?

A. Yes, sir.

Q. What is the base price of the Cambria contract?

A. I think it is $1.40 on the bars; $1.45 on the plates.

Q. They are identical on bars, then? What contract has the Republic Iron & Steel Company—in bars or is it in plates?

A. Bars.

Q. What is the price on bars; the base price?

A. I think it was $1.50.

Q. What date was that?

A. That was the early part of this year.

Q. The early part of 1913?

A. 1913.

Q. It was taken at a different time from the time at which the Carnegie contract was let?

MR. LINDABURY: He has not said that.

MR. COLTON: I am asking him that.

MR. LINDABURY: No, you are telling him.

MR. DICKINSON: He said the Carnegie was in December.

MR. LINDABURY: December or January; he did not know which.

THE WITNESS: They were all in the same general period of time.

By MR. COLTON:

Q. Yes, but how much apart?

A. I cannot recall the exact date.

MR. LINDABURY: Did you ask him whether the Republic Iron & Steel Company's contract covered plates as well as bars?

By MR. COLTON:

Q. Is the contract on the Republic Iron & Steel Company limited to bars?

A. It is limited to bars, as I recall.

Q. And the tonnage is how much?

A. A very small tonnage.

Q. What was the delivery in regard to the Republic?

A. What do you mean?

Q. Did you have the right to a quick delivery from the Republic?

A. It did not turn out so.

Q. I know; but did you not have it under the contract?

A. There was no promise of quick delivery; there is no promise of any specific delivery in the contract.

Q. The Republic base f. o. b. Pittsburgh was $1.50?

A. Yes, sir.

Q. At the time you took the contract with the Republic Iron & Steel Company, was that subsequent to the time you had taken the contract with the Carnegie Company?

A. Yes.

Q. When you made a contract with the Republic Company to pay it $1.50, did you at that time try to see whether you would have to pay the Carnegie Company as much as $1.50 for bars?

A. How is that?

Q. At the time you made the contract agreeing to pay $1.50 base to the Republic Company, did you also try the Carnegie Company to find out whether you would have to pay as much as $1.50 to it for bars?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Did you try the Cambria Company at that time?

A. No, sir.

Q. What company did you try besides the Republic Company at the time you paid it $1.50?

A. I do not know that I recall each one. I was already under contract with those companies.

Q. You were already under contract with all these companies?

A. With two of them.

Q. Were you under contract with the Republic Company at the time you took out this contract for 500 tons?

A. I do not believe I was. I believe the contract had expired.

Q. You had to make a new contract with the Republic?

A. Yes; it was a new contract.

Q. Was this contract for 1,500 with the Carnegie and the contract for about 1,500 with the Cambria simply a renewal of an old contract?

A. No; they were not renewals.

Q. Were they entirely new transactions?

A. When any contract has expired and there is some period of negotiation before a new contract is entered into, that would make it a new contract.

Q. Yes. I understood you, when I asked you about the Republic, to speak of that as a new contract. I may be mistaken, but I thought you were distinguishing it from the kind of contract you had entered into previously with the Carnegie Company and the kind of contract you had entered into previously with the Cambria Company.

A. I was under the impression that I had a contract with the Republic expiring at some period prior to the time of making this one.

Q. Yes; but did that have anything to do with this contract that you paid $1.50 on?

A. I had hoped that I would have another source of supply for deliveries.

Q. Then there was no connection between the two contracts?

A. No, sir.

Q. You said you recall that you did not solicit bids at that time from the Cambria Company or the Carnegie Company, at the time you had made the contract with the Republic, but you do not recall from whom you did solicit bids?

A. I more than likely had it up with one or two others. I feel fairly safe in saying that I had it up with the Bourne-Fuller Company.

Q. Do you have any recollection to that effect?

A. I feel fairly safe in saying so.

Q. I mean, do you recollect it, that you did, in fact?

A. To the best of my belief, I did. To the best of my memory I did.

Q. What is the Bourne-Fuller Company?

A. They are steel jobbers, and also operators.

Q. Do they make it themselves?

A. They own or control mills that make steel bars.

Q. What mills are those?

A. I believe——

MR. LINDABURY: We have had that several times, Mr. Colton.

MR. COLTON: But it has always been rather indefinite.

THE WITNESS: I believe the Union Rolling Mill Company is owned and operated by them.

By MR. COLTON:

Q. And the Union Rolling Mill is located near Cleveland?

A. Yes, sir.

MR. LINDABURY: Cincinnati.

By MR. COLTON:

Q. That contract you have just named as having been made with the Republic is the last contract you have made, is it not, for the class of material we have just been discussing?

A. I believe it is.

Q. Suppose you take the Carnegie contract, which was let some time in December or January: from what different parties did you solicit bids at the time you made that contract?

A. I don't believe that I recall each party with whom I had it up.

Q. Yes; but do you not know that $1.40 was then the market price?

MR. LINDABURY: What is that?

By MR. COLTON:

Q. Don't you know that $1.40 was then the market price on bars?

A. I don't recall now that that was the price.

Q. The generally quoted market price?

A. It may have been. I cannot say, now.

Q. You cannot recall, now, a single other person than the Carnegie Company that you did in fact have that question of letting that contract up with at the time you let it to the Carnegie Company?

A. I must have had it up with the Cambria Company along about the same period. I may have had other quotations coming in in the same neighborhood of time which led me to believe that it was wise to make such a contract.

Q. But as a matter of fact you have now no recollection of any other party that you took that contract up with except the Carnegie, have you?

A. I certainly had it up with the Cambria.

Q. And they offered you $1.40 on bars?

A. If I made a contract on that basis that is what they did.

Q. Now, was the Cambria contract made at the same time as the Carnegie contract?

A. Approximately.

Q. How much difference in time was there?

A. I do not remember the exact date.

Q. You do not know whether they were a month apart or not, do you?

A. They were probably about a month apart.

Q. Now, the contracts being about a month apart, as you say, can you now recall that you had the Cambria contract up with any other party than the Cambria?

A. Well, I had undoubtedly the matter of getting prices up with different parties, but whether I had the Cambria contract in my hand to go to different ones, that is not what I did.

Q. I know, but did you submit that amount of tonnage to anybody else, offer the purchase of that amount of tonnage to any other party than the Cambria company at that time?

A. During the period of negotiations there, yes.

Q. When did you negotiate for this Cambria contract, for the steel contained in this Cambria contract?

A. I do not remember the exact date.

Q. Can you give the month or the year?

A. It would be during 1912.

Q. It was during 1912, then, that you began work for the steel contained in the Cambria contract; is that right?

A. The latter part of 1912.

Q. What part of 1912?

A. Not recalling the exact date that the contract was signed, I cannot tell you; it is just my general memory.

Q. Was it October, 1912?

A. In that period of time, somewhere in there.

Q. That is, as near as you can give it is to say somewhere in there?

A. Probably a few weeks prior to the signing of the contract.

Q. When was the contract signed, as near as you can give it?

A. I should say the latter part of October or early in November, somewhere there.

Q. The latter part of October or early in November?

A. Yes.

Q. How long before the signing of the contract did you first take up the question of getting bids for the steel contained in contract with the different makers of steel?

A. Perhaps a month.

Q. Now you say about a month beforehand you began to take bids for steel contained in the contract with the Cambria. When and from whom did you take your first bid?

A. I don't remember.

Q. Name all from whom you took bids for that particular contract, the particular steel contained in that contract. You understand what I mean.

A. I do not know that I can tell you every one.

Q. Name as many as you know that you recollect that you did take bids from.

A. I may have had it up with salesmen who came in to see me; or I may have written; I do not recall now.

Q. You do not now recall that you had it up with anyone besides the Cambria, do you?

A. The question of obtaining steel and under contract is a matter that is before me quite often.

(By request the question was repeated by the stenographer.)

THE WITNESS: I must have had the matter up in some way or I would not have closed with Cambria.

By Mr. Colton:

Q. That is all the answer you can make to that, is it?

A. I could not tell you each one that I had it up with.

Q. And you cannot answer as to any of them that you had it up with as a matter of recollection, can you? If so, name the person.

A. Well, I feel very certain that I had the question of steel contracts up with Bourne-Fuller Company in that period of time.

Q. Covering that same quantity of steel, within what period of time?

A. The latter part of 1912.

Q. No, but within that month which we have been talking about did you have it up with Bourne, Fuller & Company? Do you recollect that?

A. Not as to the month.

Q. You do not know whether you had that up during that month with Bourne, Fuller & Company?

A. I feel very certain that I had it up with them.

Q. You are not sure you had it up with them during that month, are you?

A. Not absolutely.

Q. And you have no definite recollection as to the time that you had it up with them at all, have you?

A. During that general period of time I had it up with them. During that general period of time I undoubtedly had it up with them.

Q. At the time you made the contract with the Carnegie Steel Company for bars at $1.40, you state you do not know whether that was the general market price for bars at that time or not? Is that correct?

A. I do not recall it now.

Q. Now, is your recollection in regard to this contract with the Carnegie Company about as clear as it is in reference to the various other contracts that you have entered into from time to time, from 1908 to 1913, inclusive?

A. Perhaps a little more so, because it is more recent.

Q. And yet you do not remember whether the price you paid was the market price or not; that is correct, isn't it?

A. I must have been satisfied at the time.

Q. But whether it was the price that was quoted in the Iron Age at that time you do not know?

A. I did not depend on the Iron Age entirely.

Q. I know you do not depend on the Iron Age entirely, but you do not know, do you?

A. I say I do not recall now.

Q. You do not know whether it corresponded with the price in the Iron Age or not, do you?

A. I do not recall now.

(Whereupon an adjournment was taken until to-morrow, Thursday, November 20, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND FIFTEENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Thursday, November 20, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY and MR. REED.

PLINY O. DORMAN,

the witness under examination at the taking of adjournment, resumed the stand for further examination.

CROSS EXAMINATION (Continued)

By MR. COLTON:

Q. Mr. Dorman, in 1908 the mills were running about 40 per cent. full in the summer, were they not?

A. I do not know as to the figures.

Q. In the summer of 1909 they were running about 75 per cent. full?

A. That I could not tell you.

Q. They were running fuller in the summer of 1909 than they were in the summer of 1908, were they not?

A. I am not very clear as to those two years, but I believe there was more business in 1909.

Q. And yet in the summer of 1909 the prices were very much lower than they were in the summer of 1908; don't you know that?

A. There was a reduction in the price somewhere in that period.

Q. Somewhere in 1909?

A. In 1909.

MR. LINDABURY: I desire to enter an objection to making a statement to the witness and asking him if he does not know that; that is not inquiry, but information.

MR. COLTON: That is proper on cross examination, to ask the witness whether he knows or not.

MR. LINDABURY: I think it is not proper, and I except to it.

By MR. COLTON:

Q. Now, what contracts did you enter into with the Carnegie Steel Company during the year 1908?

A. I cannot definitely recall now.

Q. Can you recall the price paid the Carnegie Steel Company for bars during the year 1908 on any contract?

A. No, I cannot recall the exact price.

Q. Can you recall that on any contract in 1908 that you made with the Carnegie Steel Company you paid a different price from that generally quoted by the other large manufacturers of steel?

A. Not now, I cannot recall it.

Q. Can you remember that you paid the Carnegie Steel Company, upon any contract in 1908, a different price from that quoted in the Iron Age, as the market price at that time?

A. That I cannot recall.

Q. If I ask you the same questions for 1910, would your answers be the same?

A. Yes.

Q. Then for a given year, such as 1908 and 1910, you cannot tell how many of the different manufacturers at a given time were quoting the same price, can you?

A. I cannot recall now.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. While you say that some quoted the same price, I understand you to say that you do not remember which they were at any given time?

A. No, sir; I do not.

Q. Now, while you do not remember the dates of contracts or quotations, or the specific quotations, do you remember

with distinctness that there was the general variation in the quotations which you testified to on your direct examination?

Mr. Colton: I object to the question as leading, and not a correct summary of the witness' testimony.

The Witness: Yes.

By Mr. Lindabury:

Q. What you mean is that while you do not remember dates and specific quotations, your memory is clear as to the fact that there was a general variation?

A. Yes.

Q. You testified yesterday on your cross examination to the fact that about the end of last year or the beginning of this you made contracts for bars with the Carnegie and the Republic Iron & Steel Company at different prices, the contract with the Republic being higher than that with the Carnegie. Now, why did you not give your whole order to the Corporation?

A. The question of obtaining delivery made it advisable, in my opinion, to have several sources of supply.

Q. And has it or not been your practice to arrange for more than one source of supply?

A. Yes.

Q. Even though for the second source you had to pay a higher price?

A. Yes.

Q. You testified that as to plates you made contracts at the end of 1912 or the beginning of 1913 with Carnegie and Cambria; also at different prices, the contract with the Cambria being higher than the price with the Carnegie. Was that based upon the same considerations that you have just alluded to, affecting your contracts for bars?

A. As to more than one source of supply and delivery, yes.

Q. I asked you yesterday on your direct examination whether you had observed as a matter of fact any indication of price agreements between the manufacturers of some of the articles which you purchase, and you answered. I will now ask you whether or not you ever, during the period inquired about, which was the last ten years, or the part of it

that you have been purchasing, observed any indication of price agreements between the manufacturers of any of the articles which you purchased?

MR. COLTON: I object to that on the ground that it calls for a conclusion upon a state of facts not disclosed to the Court.

MR. LINDABURY: I am not asking, you understand, for your reasonings or conclusions, but for your observation.

MR. COLTON: The same objection.

MR. LINDABURY: Did you ever observe anything like an agreement to fix or maintain prices between the manufacturers of any of the articles which you purchased?

THE WITNESS: I do not remember of it at all.

By MR. LINDABURY:

Q. One other question, with regard to the Iron Age; did you follow the Iron Age quotations enough to observe whether they agreed with the quotations you received from time to time, or whether they varied?

A. They were not always accurate in line with the prices that were given me.

Q. Did they generally agree, or were they generally variant from the prices that were quoted to you?

A. At some periods they generally agreed.

Q. How about other periods?

A. They did not.

Q. Which were the periods when they generally agreed?

A. When the mills were very busy.

Q. Did they agree when the prices were tending upward or when they were tending downward? That is, when the market was unsteady?

A. When the market was unsteady we had a greater variation.

RECROSS EXAMINATION

By MR. COLTON:

Q. Now, on the redirect examination you referred to general variation in prices. What do you mean by "general variation"?

A. A dollar a ton would be a variation.

Q. What do you mean by "general variation"?

A. A dollar a ton would be a variation, and there might be several who had quoted a price; someone might be a little higher, someone a little lower.

Q. Now, there would be several who quoted what you call a price; there might be in some instances. That is a fact, isn't it?

A. Yes.

Q. Now, during 1908, for example, several of these manufacturers might have quoted the same price over a considerable period of time; is that right?

MR. LINDABURY: I object to that form of question, embodying a statement of a fact or supposed fact by the questioner, instead of asking a question. I further object because it asks for a speculation; anything might have been done. The question is, what was done.

THE WITNESS: I do not recall definitely.

By MR. COLTON:

Q. You have no definite recollection on the subject one way or the other?

A. No, sir.

Q. And as to 1910, is your mind equally unclear as to whether they did or did not, for a long period of time, quote the same price, several of them?

A. I do not recall clearly.

Q. And that is true of each of the products in which you dealt for both of those years?

A. Yes.

Q. How much seamless tubes were you selling, or electric welded tubes, which is the character of tubes which you sell, in 1900?

A. I have no knowledge of that part of it at all.

Q. Was it a very small tonnage in 1900?

A. It would have been small.

Q. In 1901, 1902 and 1903 still small?

A. I had nothing to do with the sales of the company.

Q. You do not know to what extent you were selling welded tubes during that period?

A. No, sir.

Q. You do not know whether it amounted to 3,000 tons a year or not at that time?

A. You see, I had nothing to do with the sales. I don't know those figures; I had nothing to do with the tabulation of those figures.

Q. Do you know when the first sale was made of electric welded tubing?

A. I do not know that.

Q. Do you know whether any sales of electric welded tubing were made before 1900 by your company or the company with which you were identified?

A. I believe there were.

Q. Have you any positive recollection that they were made?

A. It was being manufactured.

Q. It was manufactured by your company?

A. Yes, sir.

Q. Do you know the tonnage that was manufactured at any time during 1900, 1901, 1902 and 1903?

A. I do not.

Q. Or for any of those years?

A. No, sir.

MR. COLTON: That is all.

By MR. LINDABURY:

Q. Do you remember, Mr. Dorman, that any two manufacturers quoted the same price on the same article two consecutive times during the period that you received quotations?

A. Such might have been the case.

Q. While it might have been the case, do you recall that it was the case? Do you recall any such instance?

A. I do not now; there may have been a drop in price between two periods when I had it up, or there may have been an advance in price during two periods, and yet they would have reached the same price at another time.

Q. I think you did not catch the question. It is whether

or not, assuming that at one time or another two different manufacturers quoted to you identical prices on some article that you desired to purchase—you have got that, have you?

A. Yes, sir.

Q. I am asking you whether the same two ever did that twice consecutively; that is, two times, one after the other. Did that ever occur, so far as you can recall?

A. I could not answer positively on that now. I do not recall.

Q. You have no recollection of their having done it?

A. No, sir.

MR. LINDABURY: That is all.

BENJAMIN F. MILES

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live, Mr. Miles?

A. Cleveland, Ohio.

Q. What is your business?

A. I am president of the Browning Engineering Company of that city.

Q. How long have you been president of that company?

A. About a dozen years.

Q. How long has it been in existence?

A. About the same length of time.

Q. Does that company ever have occasion to use steel products in its business?

A. It buys quite a variety of steel products, shapes, angles, and things of that kind, for the manufacture of locomotive cranes, pile drivers and accessories to them, like buckets.

Q. Have you been in any other business during the last twenty years in which you have been concerned in the purchase of steel products?

A. In street railways.

Q. In street railways at what time?

A. From about 1890 to 1910.

Q. That is, twenty years?

A. About twenty years.

Q. What street railways were they?

A. The street railways that developed around Youngstown, New Castle and Sharon, in Pennsylvania, and the Mahoning and Shenango Valleys in Ohio and Pennsylvania.

Q. Were you interested in those as a stockholder?

A. Yes.

Q. And were you on the board or boards of management, if there was more than one company?

A. I was on the executive committee practically all of that time.

Q. Is that the executive committee of the board of directors?

A. Yes, sir.

Q. Was there one company owning all the roads that you alluded to, or more than one company?

A. The roads gradually grew up from small beginnings, and they were managed as a whole, though there were many different corporations.

Q. I think you were proceeding to mention some other experience you had had in the use of steel, were you?

A. The last two or three years I have been one of the directors of M. Beatty & Sons, Limited, of Welland, Ontario, in Canada, who make dredges, scows and hoisting engines.

Q. Where is Welland located?

A. Just west of Buffalo, some twenty miles.

Q. Does that company do a considerable business?

A. It does some several hundred thousand dollars a year, varying sometimes with the times.

Q. It uses steel products, I take it, of course?

A. It uses plates, largely, in the manufacture of scow and dredge hulls; also for boilers.

Q. Do you know whether it obtains that from concerns that

are manufacturing in the United States or not to any considerable extent?

A. Mostly from the Corporation, but occasionally from England.

Q. What do you mean by mostly from the Corporation—the United States Steel Corporation?

A. Yes, sir; the Steel Corporation.

Q. Do you know whether it buys from any other American manufacturer?

A. In small lots, but substantially they have had the best treatment from the Steel Corporation, and consequently they give them the bulk of their business. The business has averaged, I should say, somewhere about six or eight hundred thousand tons a year lately.

Q. How long has that concern been in business? You have stated the period of your connection with it.

A. Between fifty and sixty years. It is the oldest concern of the kind in Canada.

Q. Had you had any connection with it as a stockholder or otherwise before you went on the board of direction?

A. No, sir.

Q. Your interest in it, therefore, is limited to the three-year period you mention?

A. Yes, sir.

Q. I believe you have been in other businesses than those you mention, also, in which perhaps steel was not used?

A. I have been in the linseed industry quite a good deal, and there we buy a good many, or did formerly buy a great many of these large steel tanks for the storage of oil and seed and cakes.

Q. I think you were president of the American Linseed Oil Company, were you not, at one time?

A. Yes, sir.

Q. What was the period when that company, as you stated, were purchasing steel for tanks?

A. In the late nineties and early in 1901.

MR. DICKINSON: I understood him a little differently from the way in which you apparently understood him, Mr. Linda-

bury. You say "steel for tanks." I understood him to say that he purchased steel tanks. How was that?

THE WITNESS: Both.

MR. LINDABURY: So we are both right.

By MR. LINDABURY:

Q. Were those purchases considerable in tonnage? I do not want the tonnage, but only desire to know whether or not they were considerable.

A. A tank would usually stand in anywhere from five to ten thousand dollars, sometimes more, according to the size; and it was a matter that always came up to be decided by the executive committee, and we usually bought in and around Chicago because we could get the best deliveries there.

Q. Could you give an idea of the number of tanks you bought in any year or period of years?

A. I should say at the time I was in the linseed business, several years, we bought 25 or 30 tanks all told.

Q. What period did that cover?

A. That would cover a period from about 1896 to about 1901.

Q. Have you been in any other business in which steel products were consumed?

A. I was treasurer for some years of the parent Brush Electric Company.

Q. By that term you mean the first of those Brush Electric Companies?

A. Yes.

Q. When was that?

A. That was from some time in 1892, the end of 1892, up to 1896.

Q. Did that company use steel products?

A. They used to use these thin plates about which dynamos are built up more or less.

Q. And did they purchase any considerable tonnage of them?

A. They were one of the largest concerns engaged in electrical manufacture at that time.

Q. And these purchases were made during that period that you have just mentioned?

A. Yes, sir.

Q. Have you been connected with any other concern during the last twenty years that has used steel products?

A. I think that is all, perhaps, that it would be necessary to mention.

Q. Coming down, now, to the Engineering Company which you first mentioned: Will you state again, to refresh my recollection, the products you say that that company has been buying during the last ten or a dozen years?

A. Angles and shapes and plates. Of course they buy pig iron and other things, but I understand you are not interested in that here.

Q. Angles and shapes and plates?

A. And axles, car wheels, and so forth.

Q. Could you give us an idea of the tonnage per year purchased in those articles?

MR. DICKINSON: Do you mean to include pig iron, axles and car wheels in your question?

MR. LINDABURY: No.

MR. DICKINSON: I did not think you did, but your question would include them, as it was put.

MR. LINDABURY: They are not steel products.

MR. COLTON: The axles are.

MR. LINDABURY: I meant to include everything except pig iron.

MR. DICKINSON: Car wheels?

MR. LINDABURY: Yes.

By MR. LINDABURY:

Q. I include in my question all the products that you mentioned that are known as steel products.

A. Yes.

Q. Which excludes only the pig iron.

A. About $100,000 per year.

Q. And about what percentage of that has been in angles, shapes and plates?

A. Two-thirds to three-quarters.

Q. Did you say that you were a member of the executive committee of that company?

A. Yes; I am president of it.

Q. Of course, being president, you would be a member of the executive committee?

A. Yes.

MR. DICKINSON: What he said about the executive committee was about these railroad companies; he never said anything about an executive committee of this company.

MR. LINDABURY: I was a little confused for a moment; I had forgotten that he said he was president of this, and on the executive committee of the other.

By MR. LINDABURY:

Q. Was there an executive committee of this Engineering Company?

A. Yes.

Q. And you are ex-officio a member of it?

A. I am chairman of it.

Q. Have you personally had to do with the purchases of these steel products referred to?

A. That is done by the purchasing agent; the committee simply takes up the contracts as the various figures are submitted and decides of whom they shall be bought.

Q. In that way you are made acquainted with the conditions affecting the purchases, I take it?

A. Yes.

Q. You spoke of the contracts being taken up. Are quotations obtained, in ordinary practice, before contracts are made?

A. Yes; we usually invite prices from the concerns that seem to be best fitted to fulfill our wants.

Q. And from how many concerns do you obtain quotations on angles, shapes and plates?

A. Anywhere from two or three to half a dozen, according to the state of the market and what we might happen to need at the time.

Q. And from which of the manufacturers of those articles do you ordinarily invite quotations?

A. From the Cleveland Steel Company, from the Carnegie people in Cleveland, from the Bourne-Fuller people, and occasionally from the Lackawanna and Cambria people. On boiler plate, usually from one or two of the ones I have mentioned, and from the Lukens Iron & Steel Company at Coatesville.

Q. Plates are not made by all the concerns which make angles and shapes, are they?

A. I don't think they are, but I have no positive knowledge.

Q. And has the course of business that you have just stated obtained for the last ten or twelve years?

A. Yes, substantially.

Q. Do you buy periodically or from time to time to answer immediate needs?

A. According to the looks of the business and the state of the market.

Q. Then you have not a fixed time for buying?

A. No, sir.

Q. Do you ordinarily buy in considerable quantities?

A. At times we have bought for a year or a year and a half; then again we just buy from hand to mouth.

Q. I suppose that on an advancing market you try to buy all you can?

A. We try to buy all we can.

Q. And on a declining market the manufacturer tries to sell you all you will take?

A. That is it, sir.

Q. I presume it works that way?

A. Yes.

Q. Now, have you found that the quotations during this period of years on angles, shapes and bars, from the concerns from whom you have invited them, have been uniform or varying?

A. They have been varying somewhat, depending upon the state of the market and how much the concerns said they were sold ahead, whether they could deliver promptly the particular kind of material that we wanted.

Q. Is the extent of the variation greater at some periods than it is at others?

A. Sometimes two or three of the concerns might be out of the market, as far as we were concerned, because they could not make the deliveries we wished.

Q. But, generally, in boom times are the quotations as variant as they are when markets are running fairly even or steady?

A. Well, in boom times it is pretty hard to get a good quotation from the manufacturers' standpoint, because they are all filled up. Usually speaking, there is a difference of anywhere from fifty cents to a dollar a ton between the various prices that are submitted, depending somewhat on what mill it comes from, and, I suppose, in connection with the freight, and so forth.

Q. That holds for the whole period, does it?

A. Substantially, although, of course, in the early part of the period the company was quite small, naturally.

Q. Have you ever observed any indication of price fixing or price agreement between the manufacturers of angles, shapes and bars with whom you have dealt, or from whom you have obtained quotations?

MR. DICKINSON: That is objected to because it calls for a conclusion of the witness based upon observation or the lack of observation, or the facts or absence of facts, that might be in his own mind and not shown, upon which such opinion or observation might be based, and therefore incompetent.

THE WITNESS: We have never had anything in our experience that we could pin down to a conclusion of that kind. Usually in boom times it has been difficult to get good prices, and in poor times, ordinary times, it is more easy and there is more variation, and there seems to be more competition.

By MR. LINDABURY:

Q. Has there or not, as a matter of fact, been competition between these manufacturers with whom you have dealt during the last ten years in angles, shapes and plates?

A. I should say that there had been quite intense compe-

tition at times, depending upon the state of the market and the state of trade generally.

Q. And has there been competition, although not always so intense, during the whole period, at all times?

A. I should say, generally speaking, there has been fair competition, sir.

Q. Have you observed any abnormality in the market during the period spoken of?

MR. DICKINSON: That is objected to on the ground that the question does not define to the witness what is meant by the term "abnormality," and it does not present to the witness any definite idea of what the question is.

MR. LINDABURY: I only use that term in inquiring of a gentleman of Mr. Miles' experience and intelligence. I believe he knows, and I believe you do.

MR. DICKINSON: I do not know whether he does know what you mean by that. I will make the objection.

MR. LINDABURY: We will take your answer, Mr. Miles.

THE WITNESS: Well, assuming that you have perhaps in your mind the difference in the time between, say, 1890 to 1900, and the last ten years, of course business has been more stable, prices have been more stable in the last decade than in the previous decade.

By MR. LINDABURY:

Q. Do you attribute that to price agreements or combinations on prices or to other circumstances?

A. Well, I have attributed it, as far as my observation went, to the fact that there were fewer concerns in the steel business than formerly, somewhat, and that there was more stability in the business, and that times, as a rule, during the last ten years, have been more advantageous than during the previous ten years; there has been more work, consequently more demand.

Q. What steel products are bought by the street railroads that you named?

A. Mostly steel rails of one kind and another.

Q. Do they buy girder rails?

A. Both kinds, sir.

Q. Both girder and T-rails?

A. Yes, sir.

Q. Has there been competition as to price in the sale of girder rails during the time of your experience with those companies?

A. Yes, sir; more or less.

Q. And have the quotations on girder rails to your companies been varying?

A. They have varied somewhat according to the shape desired and how well one company happened to be fitted up to make the particular frogs and things of that kind that go with them as far as girder rails are concerned.

Q. Do you know from whom you have bought them?

A. Largely from the Johnson Company.

Q. Where is that?

A. Johnstown, Pennsylvania, and there used to be a department at Lorain, as I understand.

Q. From what other sources have you purchased?

A. We bought T-rails.

Q. No, I mean girders now.

A. I think almost entirely from that concern.

Q .From the Johnson Company?

A. Yes, sir.

Q. Do you remember whether you got any quotations, or if you have, what they are, from other companies on T-rails?

A. I cannot remember the quotations; they have varied quite a good deal during that period. My recollection generally is that the lowest price I ever paid for T-rails, standard section, 72 pounds, was about $22, or $22.50, and we have paid from that up to $31 or $32, I think.

Q. Did you obtain quotations on girder rails from different concerns?

A. My recollection is we endeavored to get quotations from the Wharton Company; I am not accurate as to their exact designation, in Philadelphia, and one or two others, but we could never trade with them for some reason or other; I suppose the question of freight rates, or something.

Q. Just a word as to your experience with the Canadian Company: Did they obtain quotations from any companies except the Steel Company, from any American companies except the Steel Corporation?

A. Yes, sir; two or three always; the instructions have been always to try and get the market, and then give it to the man who gave the best delivery and lowest price, quality and delivery considered.

Q. Do you remember whether the quotations received from the competing American companies by the Canadian Company have been uniform or have been variant?

A. They have been variant somewhat.

Q. That, of course, covers the period of three years only?

A. Yes, sir.

Q. As far as your personal knowledge goes?

A. Yes, sir.

Q. You made some allusion a little while ago to the conditions obtaining at present as compared with those which obtained in the nineties. I take it from your narration of your experience that you were pretty well informed as to the conditions in the nineties.

MR. DICKINSON: Excuse me. I think he stated the last decade as compared with the preceding decade. The last decade would take part of 1900 decade, you know.

MR. LINDABURY: I suppose the last decade would take from 1903 to 1913.

MR. DICKINSON: And the previous one would take from 1903 back.

MR. LINDABURY: 1893 to 1903; I do not care which way it is put, however, so long as we understand what the witness says.

(The stenographer thereupon repeated the question as follows:)

"Q. You made some allusion a little while ago to the conditions obtaining at present as compared with those which obtained in the nineties. I take it from your narration of your experience that you were pretty well informed as to the conditions in the nineties."

THE WITNESS: Of course I am only a small manufacturer and perhaps to a certain extent typical of the average smaller consumer of steel products, but the conditions in the present decade are far more stable and far more favorable to intelligent manufacturing than they were in the previous period. Of course the fluctuations have been less, and you can calculate on your road which you would have to go over with a good deal more certainty.

By MR. LINDABURY:

Q. In what respect were the conditions which obtained in the nineties unfavorable to the small manufacturer?

A. The sudden fluctuations, rising and falling in prices, were very unfavorable to the maintenance of contracts, or to intelligent manufacturing. One could not buy and be sure that he could get out with a profit, on account of the dips in the market. If the market went up your contracts held. If the market went down, why, sometimes your contracts would hold and sometimes they would not. It was very highly speculative and the risks attendant on the industry were correspondingly increased.

Q. Do you mean that that operated to the detriment of the small manufacturer?

A. That is my experience.

Q. What about the consumer, did that tend to benefit him or contrariwise?

A. That depended somewhat upon how unscrupulous he was.

Q. Well, I am trying to get the idea of a man who has had the vast experience you have had as to whether or not those conditions tended to the benefit or detriment of the ultimate consumer?

A. I think the ultimate consumer is always benefited by stable conditions; that is one of the conditions as I would suppose of civilization, practically, stability, and anything that increases stability helps consumption, helps the average person.

Q. Has the steel trade flourished since 1903 as much as

it did during the preceding ten years? Have there been as many persons finding employment in it, has there been as much steel produced that has gone to the consumer as there was?

A. I have not those figures in my mind, but, generally speaking, my impression would be that there was a very great increase.

Q. In the number of men who found employment?

A. In the number of men who found employment, and in tonnage, and in railroad people employed, in carrying the various products, in the mills, all along the line, I should suppose that there had been an increase of perhaps 100 per cent., although that is a guess, as I have not consulted the figures at all.

Q. And with a greater number of men employed in the steel industry, have their wages gone down?

MR. DICKINSON: That is objected to because it has not been shown that the witness has knowledge of the wages generally.

THE WITNESS: If you care to have me make a personal remark, the only way I would know about that——

MR. DICKINSON: That is just an objection. You need not address yourself to me. You may answer or not, as you see fit.

THE WITNESS: There was always a big increase in street railway receipts when times were good and wages were stable, because the buying power of the average workman was greatly increased, and consequently he went to and fro more, and his wife went to and fro more; and we always knew when the scale went up or when the scale went down in the valleys. You could tell it, just as a doctor can tell the state of a man's health by his pulse, almost. It was immediate.

By MR. LINDABURY:

Q. To come back to the small manufacturer you were talking about, and the dealer, did any of them fail during that period of alternate excitement and depression which characterized the nineties, as you say?

A. Failures were very great, and credits were very carefully scanned by every one.

Q. Did that assist the small manufacturer?

A. If the small manufacturer lacked at all for active capital, it was very disadvantageous to him, because he could not get on his feet. If he was a careful man, of course he could weather along.

Q. Did you observe any effect of those conditions on the jobbers and other purchasers of steel products? Did they seem to benefit by the wide swing of the pendulum?

A. Some that I knew did, and some that I knew did not. It was according to the individual fellow.

Q. Were there many who did not? Were there any failures during that period?

A. There were failures. I could not specify in detail, however, as to the percentage, or anything of that kind.

Q. And about the small manufacturer, not of the finished product, but of the steel product itself, did you notice whether they all weathered that kind of weather?

A. Oh, they failed, in part, just as everyone else did in those times.

Q. Did those conditions produce, for the ultimate consumer, the quantity of steel that the more stable conditions that you have alluded to have given during the latter decade?

A. The output was very much less.

Q. Has the Steel Corporation, or have any of the steel manufacturers, acting separately or in any other way, appeared to you, as a matter of fact, to restrain trade during the last decade?

Mr. Dickinson: This is objected to, because it calls for a mere conclusion of the witness, and not for any facts within his knowledge, and it is not shown upon what his conclusions may be based, and therefore it is incompetent.

Mr. Lindabury: The details you may get on cross examination, Judge. I am asking generally, now, as to whether or not, as a matter of fact, he has observed that the manufacturers, naming the Steel Corporation in particular, but including the others, have been restraining trade during the last ten years.

MR. DICKINSON: This is objected to because it puts the witness' interpretation upon what "restraining" may be, and that is a mixed question of fact and law upon which the witness is not competent to express an opinion.

By MR. LINDABURY:

Q. Now you may answer.

A. Not in my own observation, sir.

Q. Has there been any period within your memory in which the steel trade has flourished to the extent that it has flourished during the last decade?

A. No, sir.

Q. So far as your observation has gone, has the Steel Corporation retarded or depressed the trade during that period by its practices or organization?

MR. DICKINSON: This is objected to because it calls for the conclusion of the witness as to depressing or retarding, and refers to practices without stating what practices are involved in the question, and calls for the witness, in his own mind, to pass judgment upon what he may regard or disregard as practices, and therefore is incompetent.

By MR. LINDABURY:

Q. Now you may answer.

A. Not within my observation.

Q. How old are you, if you do not mind telling us, Mr. Miles?

A. I think I am fifty-four, sir.

Q. Has there been, within your recollection, anywhere in this country, any force, at any time, that has tended to promote the steel industry to a greater extent than the United States Steel Corporation has promoted it?

MR. DICKINSON: That is objected to as incompetent. The witness has not been shown to be qualified to speak upon the proposition.

THE WITNESS: My own judgment is that the Steel Corporation has been a great help to the country, and has been a godsend to the small consumer of steel products.

By Mr. Lindabury:

Q. You will observe that you have not quite answered the question, Mr. Miles.

(By request, the stenographer repeated the pending question as follows:)

"Q. Has there been, within your recollection, anywhere in this country, any force, at any time, that has tended to promote the steel industry to a greater extent than the United States Steel Corporation has promoted it?"

A. I would say that I know, generally speaking, of no conditions like those that have prevailed since the formation of the Corporation. Of course there my information is very general, but before that it was a state of war, every fellow tomahawked the other. I can well remember some large batches of notes in the nineties being offered through the banks in the Valleys by Mr. Carnegie, and I was informed——

Mr. Dickinson: This is objected to as incompetent and hearsay.

By Mr. Lindabury:

Q. Go on and tell us, Mr. Miles.

A. I know, having seen, some large batches of notes offered through the banks in the Valleys by the Carnegie Company, with the understanding that if they would be discounted things would be made a lot easier for some of the interests that were allied there.

Q. Even the notes of the Carnegie Company in those days were questioned, were they not?

Mr. Dickinson: Objected to as incompetent and irrelevant.

The Witness: Yes; I have heard them questioned.

By Mr. Lindabury:

Q. Now, to go back to your answer that the Steel Corporation has been a great benefit, or, as you term it, a godsend to the small manufacturer—or did you say consumer?

Mr. Colton: To the small manufacturing consumer.

By Mr. Lindabury:

Q. (Continuing) To the small manufacturing consumer, tell me why you particularize in that way?

A. That is where my observation lies; I am perhaps in that class, and I would say that any concerns I have been interested in have benefited.

Q. And why has it appeared to you that the benefit to the small manufacturing consumer was particular or special?

A. Well, I am not saying one way or the other about the country generally; I am simply testifying that as connected with these different concerns it has enabled those concerns to do their business intelligently; they have had a basis of cost upon which they could rely, and they have been able to give their attention almost undividedly to getting out their product on the cheapest possible basis, to produce their machinery in the best quality and to put their ideas into the simplest shape, and have been relieved from the nightmare of waking up the next morning after signing a contract and finding that the market had gone off about $5 a ton.

Q. Now, a few questions about that: Have those conditions rendered it practicable for the small manufacturing consumer to get along with less capital than he needed under the old conditions that you told us about?

A. The average amount of capital employed would be much more even and it would not be necessary to take any such large quantity and perhaps go to bank in order to get the accommodation to carry.

Q. Did that tend to cheapen the cost of production?

A. It tended to decrease the interest account materially.

Q. And did the other circumstances that are narrated in your answer generally tend to cheapen the cost of manufacture?

A. It tended to increase the cost.

Q. No; those conditions that you allude to that have obtained during the last decade, have they tended to decrease the cost as compared with the cost in the early period of wide fluctuations?

A. They tended to decrease the cost.

Mr. Lindabury: You may cross examine.

CROSS EXAMINATION

By Mr. Dickinson:

Q. Mr. Miles, as the president of the Browning Engineering Company, which has been buying the various kinds of products which you have described over a period of about twelve years, you yourself had nothing to do with soliciting prices or quotations, did you?

A. No, sir.

Q. Who did that?

A. The purchasing agent.

Q. He carried on that part of the business entirely, did he?

A. He carried it on to the extent of getting quotations and seeing salesmen, tabulating the results, and submitting them to the committee.

Q. And it came before the committee in tabulated form, and the committee had no special reason to have an impression upon their minds or carry in their memories the particular prices or variations in prices on any particular transaction, had they?

A. No, sir; I could not do that without consultation with the records.

Q. And you do not undertake to say?

A. No, sir.

Q. Now, these prices for the various things that were bought by the Browning Engineering Company and tabulated in the way you have described, and laid before you, were for delivery at what place?

A. At Cleveland.

Q. Then they included the freight, did they not?

A. Yes.

Q. You compared the results as shown there, or rather the figures, each set of figures representing bids, including the freight?

A. Yes; that is what interested us, what it would cost us at the point where we were going to use the material.

Q. And what the quotations may have been f. o. b. Pittsburgh or any other point you do not know?

A. No, sir.

Q. And whether there was any variation, as to that you do not know?

A. I do not know, sir; I have simply assumed that the Interstate Commerce Commission protected us all in giving uniform rates.

Q. But have you had uniform rates for ten or twelve years?

A. I do not know.

Q. And you do not undertake to say that they were?

A. No, sir.

Q. That was a matter that concerned the seller and not you?

A. Yes.

Q. And you do not undertake to say that so far as the prices were concerned there was other than the variation in the result which was laid before you, which included the freight from various points?

A. Yes.

Q. And that variation you say was slight?

A. Anywhere from 50 cents to $2 a ton; that is my recollection generally.

Q. Now, take the purchases the last two or three years of the concern in Ontario to which you have referred, what did you have to do with those purchases?

A. Substantially the same course is followed there as I have described in Cleveland.

Q. And would, if I addressed to you the same questions with regard to prices and variations and deliveries in respect to those purchases, your answers be the same?

A. Substantially the same, plus of course the factor of the Canadian duty.

Q. And the duty was included, was it?

A. Yes.

Q. In the bid?

A. Not in the bid, but we always make calculation for it.

Q. But the freight was included in the bid?

A. I could not say as to whether over there it was included; there was always an allowance made for the freight in any event, in reaching our conclusion.

Q. Then narrowing the whole question down to the bid f. o. b. Pittsburgh or some common point, you do not undertake to speak as to variation of prices, do you?

A. No, sir.

Q. You only speak of it in the concrete form in which it reached you?

A. Yes.

Q. You spoke of some purchases in standard rails and you speak of variation in prices; the variations to which you refer were variations that occurred at different periods throughout that whole time of purchase, were they not?

A. Well, there would be as a rule considerable variations in the prices quoted on each purchase, and then of course there would be large variations with the different years, not what you may call the general market—I don't know just what you refer to.

Q. What period are you speaking of there in regard to the seventy-pound rails and purchases?

A. About 1895-1896.

Q. Well, now, you have given one date, 1895-1896. Did it include any time since that or before that?

A. I gave that date because it was about that time that we awoke to the fact that we would have to buy at least 72-pound rails for the requirements of the traffic, and from that time on we bought a heavier rail rather than a lighter rail, which we had previously done.

Q. What year did you say?

A. About 1895.

Q. Now, how long a period from 1895 did you buy these standard rails?

A. More or less every year.

Q. Down to the present time?

A. Down to the latter part of 1909 or the beginning of 1910, when my connection with the companies ceased.

Q. Now, can you give the prices for any particular period or any year from 1905 down to 1910 that you paid for standard rails?

A. My recollection is that in building to Niles in 1895 we

paid $22.50, and I think that was the lowest, the latter part of 1894 or the beginning of 1895, and then after that prices advanced somewhat, and my recollection is that after about 1898 prices did not vary greatly from $28 or $29 to $31 or $32.

Q. Now, is it not a fact that from about 1901 the price upon standard Bessemer rails has been $28 a ton?

A. We do not buy, sir, quite the same quality that the railroads do, and the terms have been somewhat different, and there would be little fluctuations in the market that would probably account for some differences there.

Q. Then the prices you have been giving of the rails purchased by you—you have not undertaken to give the prevailing prices for standard Bessemer rails such as are used by railroads?

A. I have taken them simply from my own experience.

Q. And limited to that kind which you say differs somewhat from the standard Bessemer rail used by railroads?

A. In a few cases we would buy a less quantity of frogs and plates and spikes, and that would make quite a little difference in the prices.

Q. What I wanted to get at is, I understood you to say that the 72-pound rail that you have been buying for your purposes has been somewhat different from the standard Bessemer rails such as are used by railroads?

A. Yes, sir.

Q. And you have not, as I understand you, undertaken to get the price of any other kind of rail except the particular kind that you use?

A. Yes, sir.

Q. That is correct, is it?

A. That is correct; as I understand it, the practice is, at least in my own limited experience, that for every lot of rails that you buy you buy about so many spikes and fish plates with it, and it was not our practice to do that, and that made some difference in our prices. I was perhaps trying to be a little too minute, that is all.

Q. I am not speaking now of frogs and spikes, but I am

speaking now of prices that you have been paying on rails, and I understand you that the 72-pound rails that you have been buying have been somewhat different from the standard Bessemer rails used by railroads; is that correct or not?

A. No, sir, not in the quality of the rails.

Q. I do not now know that I understand you. Did I state the thing right or wrong?

A. May I have your question read again?

(The stenographer thereupon repeated the question, as follows:)

"Q. I am not speaking now of frogs and spikes, but I am speaking now of prices that you have been paying on rails, and I understand you that the 72-pound rails that you have been buying have been somewhat different from the standard Bessemer rails used by railroads; is that correct or not?"

THE WITNESS: The quality of the rails is the same, but we were buying purely the rail and would not buy the trimmings that would go with them at times, and that seemed to make some difference in the prices as I understood, at the time.

By MR. DICKINSON:

Q. Now, have you ever bought them for less than $28 at rail mill since 1901; if so, when did you buy them and from whom; I mean the rails alone?

A. My recollection is we paid a little more at times than $28 in order to get delivery.

Q. The question is have you ever bought them for less?

A. I do not remember that we have.

Q. You have said this concern in Canada bought mostly from the United States Steel Corporation; is that a fact?

A. Two-thirds to three-quarters of the tonnage, I should say, sir.

Q. And that has been over what period of time?

A. The last three years.

Q. How much tonnage is that a year?

A. From the Steel Corporation?

Q. Either that or your whole tonnage.

A. About 1,000 tons a year.

Q. That is your whole tonnage?

A. Yes, sir.

Q. About three-quarters of that you get from the Steel Corporation?

A. Yes.

Q. Now, in this linseed oil business you bought tanks and also tank plate?

A. Yes, sir.

Q. What did you do with the tank plates?

A. We would hire a gang of men and rivet them up into tanks under the direction of our manufacturing department.

Q. You say throughout that period you bought 25 or 35 tanks; do you mean to say 25 or 35 tanks or that the tanks which you bought and the tanks which you made out of the plate which you bought amounted to 25 or 35?

A. The latter.

Q. And that ran from 1896 to 1901?

A. Yes, sir.

Q. Now, of angles, shapes and plates what tonnage has the Browning Engineering Company bought, say, during the year 1913?

A. The purchases for this year will be substantially, with the deliveries, a trifle over, including axles, something over $100,000, somewhere around $110,000, I should think.

Q. Was that under a contract or contracts?

A. No, sir—partly contract and partly from hand to mouth.

Q. Taking the contracts; with what concerns did you have written contracts covering that material; I mean, for the year 1913?

A. Bourne-Fuller Company, in Cleveland; the Carnegie Steel Company—would you like to know all the concerns?

Q. That you had written contracts with for that $100,000 worth in 1913.

A. My recollection is that we had a written contract with the Cleveland Steel Company and with the Lukens Iron & Steel Company; those four.

Q. All these were written contracts?

A. That is my recollection, sir. The others I think were large specific orders. There are about six or seven other concerns of whom we have bought specific amounts from time to time.

Q. And all of that is included in the $100,000?

A. Yes.

Q. Take this contract with the Carnegie Company: what tonnage did that cover?

A. That is about one-tenth of the whole.

Q. And the Bourne-Fuller Company how much?

A. Between four and five-tenths.

Q. Between four and five-tenths of the whole?

A. Between four and five-tenths.

Q. And the Cleveland Steel Company?

A. Between one and two-tenths.

Q. And Lukens?

A. Not quite two-tenths.

Q. Then a very small part of it was covered by contract, was it not?

A. My recollection is that over half of it was covered by contracts.

Q. Did you say forty-five, a moment ago——

A. Four to five-tenths.

Q. That would be from forty to fifty per cent.?

A. A little over forty per cent.

Q. I did not catch that, and miscomprehended it.

A. I probably dropped my voice too much.

Q. These other purchases which were from time to time made: from whom have you made those? You said there were six or seven purchases.

A. We have gotten little scattering bits——

Q. I did not ask you for bids.

A. I said "bits." We have gotten little scattering bits from the Van Dorn Iron Works in Cleveland; from T. H. Brooks & Company in Cleveland. I think we have gotten a little bit from the Penn Bridge Company of Beaver Falls. I think with the other six or seven that I have named that makes about the ten. I could give you a list of them up to date, if you would care to have them, Judge.

Q. No, that is sufficient, I think. Is it not true that throughout this time the difference between these companies has been so slight that the main thing that controlled you in purchase has been the question of delivery?

A. Not altogether.

Q. To a large extent is that not true?

A. To a considerable extent that would be true of any concern such as I represent.

Q. Is it not also true that throughout continuous periods, weeks at a time or months at a time, the prices or bids made by manufacturers as submitted to you would be substantially the same?

A. That would depend upon how you would define "substantially," sir. Sometimes, as I say, they would vary about fifty cents a ton, sometimes two dollars a ton, and in some instances even five dollars a ton. In some cases the deliveries would be such that we could not consider the prices at all.

Q. And to what extent the freight was involved in that you do not know?

A. I do not know, sir. It would be whatever the standard freight rates were.

Q. That is, you assume that would be so?

A. I suppose so, sir.

Q. You do not know anything to the contrary?

A. I have no reason to assume to the contrary.

Q. But you do not know the fact?

A. No, sir; no more than I have stated.

Q. You spoke of the conditions in the nineties as being characterized by sudden fluctuations, and being highly speculative. Those conditions were brought about, were they not, by sharp competition among manufacturers seeking the business and cutting the prices to get the business?

A. In some cases they were brought about by failures, and in some cases, of course, it would be very difficult to know just what caused them. There is still a dispute among economists as to what caused them.

Q. You do not undertake to give any opinion, then, as to the cause, or you have not undertaken to give any opinion as to the cause?

A. I should call it over-competition; too active competition—far more sellers than buyers; a case of where you would almost call it predatory industrial warfare.

Q. And a large part of those conditions, then, in your

opinion, were brought about by competition between the manufacturers of steel?

A. Yes, sir.

Q. You have stated that there has been a large increase in the last decade in the output of steel as compared with the preceding one? I understood you to say that.

A. That is my understanding, sir.

Q. This country has grown enormously, has it not, comparing those two decades?

A. It has, sir.

Q. There are very many more people in the United States during the last decade than there were in the other decade?

A. Certainly, sir.

Q. And a great many more manufacturing concerns in the last decade than in the previous decade?

A. Very many.

Q. And the style of living has increased, has it not, in the last decade, as compared with the preceding decade?

A. Yes, sir.

Q. Have there not been increases in other productions, say in agriculture, as compared with the preceding decade?

MR. LINDABURY: What kind of agriculture?

THE WITNESS: I would say there has been much less increase in agriculture, proportionately, than in the iron and steel business. That is one of the troubles with the cost of living, according to many of our economists.

By MR. DICKINSON:

Q. Is it not a fact that from 1893 to 1903 the ratio of increase in the steel industry in the United States was as great as it was from 1903 and during the ten years following that?

MR. LINDABURY: I object to the question because it does not state the ratio to what.

By MR. DICKINSON:

Q. (Continuing) The ratio between the two periods; do you understand that? To contrast the two periods, the growth of the steel industry in the decade from 1893 to 1903 as contrasted with the decade following that. That was the question.

A. I was trying, Judge Dickinson, to remember the condi-

tions previous to the formation of the Steel Corporation and since the formation of the Steel Corporation, which I understood was about the dividing line which you wished drawn.

Q. No, I am not drawing anything about the Corporation; I am giving you certain dates.

A. I could not tell you as between 1893 and 1903; my recollection is that the Steel Corporation was formed in 1900 or 1901, and the period before that was what I meant to testify to in one case, and the period after that in the other.

Q. Have you meant to testify that in the ten years preceding the formation of the Corporation, as contrasted with the ten years dating from its formation, the ratio of increase was very much less?

A. I have not tried to testify so much about that as to the conditions which prevailed during those periods, because I have not tried to inform myself on the exact statistics.

Q. But I did understand you to undertake to testify that during a certain decade there had been an enormous increase in the steel industry. Now, I am asking you as to the ratio of increase as compared with the preceding decade.

A. My impression would be that the second decade has witnessed a larger increase than the first, but in that I may be mistaken, so far as ratio is concerned.

Q. But you do not undertake to say that you know, do you?

A. I do not, in the sense of having looked up the statistics at all; that is my impression as a man who has been hustling for business for the last twenty years.

Q. And you have made no study of the matter?

A. Only a general one.

Q. Have you taken the data and compared them, and if so, when did you do it?

A. I have not done it within a year or two, but when that book came out on the subject of steel prices as affecting commercial depressions, a year or two ago, I looked it over quite carefully, and my impressions, as I testified, are the impressions that were left in my mind from the reading of that, which was something over a year or a year and a half ago.

Q. And you are just speaking from general impressions?

A. Yes.

Q. Now, has there not been an increase in the last ten years as compared with the preceding ten years in almost every variety of industry in the United States?

A. There has been an increase, yes.

Q. Has there not been a general marked progress in the ideas and thoughts of the age?

A. In the last ten years?

Q. (Continuing) I mean in the last ten years, as compared with the preceding ten years, in respect of the conditions of labor, the conditions of humanity, the efforts that have been made, and the ideas that have permeated the public mind in respect of alleviating the conditions of mankind in general, and has not that been characterized more than in any other period in human history by the extent to which the thought and mind of the age, through the public press, through the pulpit, and in every other way, have been addressed to bettering and alleviating the general conditions of humanity?

A. I would not want to answer that, sir, with either a yes or no, because I disagree with a great many of the so-called movements for the alleviation of conditions by patent processes. I think there has been altogether too much of trying to raise yourself up by the straps of your boots the last few years. You have asked me a very broad and wide question, and I am very diffident about giving you a brief answer; I do not think I could.

Q. But you know whether or not there has been such a disposition manifested, whether or not in your judgment that has been wise and well directed, do you not?

A. I should say a portion of it has been very well directed. I would say that in the steel industry the conditions have been very greatly improved during the last ten years over the previous ten years, the conditions of living and the general degree of comfort. I remember being caught on the steps of a car where I tried to clear the industrial parade in Youngstown during the first Taft campaign, and being amazed at the difference, as being shown in the pink of condition, of the

thousands of men that passed along that line one after another then, as compared with the condition of corresponding men fifteen years before. It was simply amazing.

Q. You are speaking now of the steel industry?

A. Yes.

Q. If I can get your mind off of that to something larger, and deal with that question——

A. (Interposing) The steel industry is a pretty big one.

Q. Yes, and it is a very large one in your mind?

A. Yes.

Q. You feel very friendly toward the Corporation?

A. No, sir; not especially.

Q. Did you say that you have been benefited by it?

A. Yes.

Q. And that your business has been flourishing under it?

A. Yes.

Q. And you contrasted that especially, though, in the last decade as contrasted with the preceding decade?

A. Yes.

Q. You said the preceding decade had been characterized by sharp, aggressive and destructive competition?

A. Yes.

Q. Now, the present decade has been characterized, has it not, by a maintenance of the price at pretty nearly constant levels over pretty long periods of time?

A. I would say that prices had been maintained or had steadied themselves; from just what causes I think it is a little bit soon to determine.

Q. You do not attribute that to the Steel Corporation?

A. I would attribute that, as one of the factors, to the Steel Corporation.

Q. Has it not more power and capital in its business than any other one concern in that line of business?

A. Yes, decidedly. It is one of the factors and a large factor.

Q. And this manifestation that you have seen began about the time of the formation of the Steel Corporation and has continued along with it; is that your judgment?

A. More or less so, yes.

Q. Now, coming to this question of competition, don't you know that the United States Steel Corporation combined under one management a number of concerns, making the kind of material that you had used, which up to that time were competitors with each other in business?

A. Yes, to a certain extent.

Q. Don't you know, as a matter of general notoriety in your business and a matter of common knowledge, that in the early part of the decade beginning with the year 1900, there were maintained pools which fixed and controlled, among a certain large number of manufacturers, the prices in a variety of steel products?

A. I have been told that that was the case, but I do not know anything about it of my own knowledge.

Q. Wasn't that a matter of general belief among people in your line of business?

A. I do not know that it was, but my understanding has always been that the United States Steel Corporation as an entity at present was more in the amalgamation of what were then existing cognates; that is, speaking very broadly, rather than an amalgamation of strictly competing concerns. I suppose there are more concerns producing plates and angles—that is, in tonnage, not more concerns—but I should suppose, my general impression would be, that to-day there is a larger output outside of the Steel Corporation in angles and plates and things of that kind than existed ten or twelve years ago.

Q. Now, what did you understand me to ask you when you said all that? What did you understand my question was?

A. I understood that you were asking me whether the development of the last ten years had been due primarily to the formation of the Steel Corporation, and I do not quite think that; I may be wrong.

Q. Now, I will have the stenographer read it to you, the last question that I asked you.

(The question was repeated by the stenographer as follows:)

"Q. Don't you know, as a matter of general notoriety in your business, and a matter of common knowledge, that in the

early part of the decade beginning with the year 1900 there were maintained pools which fixed and controlled, among a certain large number of manufacturers, the prices in a variety of steel products?"

(And the following question:)

"Q. Was not that a matter of general belief among people in your line of business?"

THE WITNESS: I have answered that I do not know myself, but that that was my understanding of it.

By MR. DICKINSON:

Q. You did not answer that; you went into a long excursion on something entirely irrelevant to it.

A. I did not mean to do so.

Q. Now, I understood you to say, however, that these conditions in the last decade, as contrasted with the preceding one, and which were so much better, you do not attribute chiefly to the United States Steel Corporation?

A. The question is not quite clear, sir; do you mean the conditions of the employees?

Q. No, I am not talking about employees.

A. Or do you mean the condition of prices?

Q. I will confine it to stability of prices.

A. I think that is one of the causes of it, and a large cause.

Q. That is, you say that the large cause of the stability of prices during the last ten years has been through the influence of the United States Steel Corporation?

A. I would say not the large cause; I would say a large cause, because I think the general progress of the world, of which you have spoken, and the greatly increased consumption, and all that, those causes have combined to make a very large difference, and without them probably the other could not have been operative to any extent. That is just my own judgment.

Q. But taking into consideration this general progress of humanity, which I believe your answer implies has existed, coupled with that, the largest cause has been the United States Steel Corporation's power and influence?

A. I do not feel that I am well enough qualified to say

that it is the largest cause; I think it is one of the large causes, sir. That is as far as I can go.

Q. What other cause could you name, in your judgment, as great as that?

A. There has been an immense diffusion of education, and consequently a great increase in the capacity of skilled labor to produce and to consume; all these causes of that nature have tended to produce the stability of the last ten years.

Q. You are not a pessimist, then, are you?

A. No, sir.

Q. You think there is progress going on in the world?

A. Yes, sir.

Q. A general advancement along ethical ideas, outside of as well as inside the steel business?

A. I hope it is in the steel business.

Q. You do not think all the virtue and all the progress is in the steel business?

A. No, sir; decidedly not.

Q. You believe in stability of prices, don't you?

A. Yes, sir.

Q. And you do not believe in competition—or do you?

A. Well, I think that is a very difficult subject, sir. Certainly I believe in very considerable competition, but I do not think that competition, when it becomes cut-throat and destructive, so that an industrial field is left the way the Iroquois Indians used to leave portions of eastern Ohio, and so on, I do not think when competition gets to that point it is a good thing.

Q. Did you ever engage in it to that extent?

A. No, sir; I never have.

Q. Well, your experience goes back over a period of twenty years?

A. I have seen it when I thought it was pretty nearly as bad as that.

Q. I am speaking now of your experience.

A. Yes, sir.

Q. And you did not do those things, then?

A. Oh, I think we all did a good many things twenty years ago.

Q. I mean like the Iroquois Indians, and carry devastation and desolation in your wake?

A. I have seen some pretty tough things done in twenty years.

Q. I am speaking of your personal experience in business, whether you carried on the Iroquois method of tomahawking and the scalping knife.

A. You usually try to hold on to what you have got, and you fight for it as long as you have got any money left.

Q. Did you destroy your competitors by any underhanded means?

A. Not by any underhanded means; simply if everybody would do that, the result would be as it is in Mexico, there would not be many left to fight.

Q. You did survive, didn't you?

A. Just survived, at times.

Q. As many other of your competitors survived?

A. As by fire.

Q. Purified, were you, and made better in the next decade?

A. I do not know whether we were purified or not.

Q. Oh, I thought you said that conditions were better, and the standards of dealing were on a higher scale; is that so, or is it not so?

A. I think that is so, but I do not know that I would trace it to the troubles and conflicts of twenty years ago. That is too deep a subject for me, sir.

MR. DICKINSON: We will adjourn now and take it up a little bit later.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

BENJAMIN F. MILES,

the witness under examination at the taking of recess, resumed the stand.

MR. DICKINSON: That is all I wish to ask Mr. Miles; I do not wish to ask him any more questions.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. On the subject of the development of the steel industry, I wish, Mr. Miles, to call your attention to Government Exhibit No. 364, Volume XII, giving the statistics bearing on the subject, and I will ask you what, as shown by that exhibit, the increase in tonnage of steel production between 1890 and 1900 was.

MR. DICKINSON: This is objected to because the exhibit is in evidence and shows for itself; it does not require any interpretation on the part of the witness, and is an unnecessary consumption of time.

THE WITNESS: 5,911,000 tons.

By MR. LINDABURY:

Q. Plus?

A. Plus.

Q. What was it from 1900 to 1910?

A. 15,906,000 tons plus.

Q. Mr. Miles, speaking of the comparative prosperity of the different industries in this country, do you know of any basic manufacturing industry that has flourished during the last decade to the extent of the steel industry?

MR. DICKINSON: I object on the ground that the witness has not shown that he is familiar with any other industry.

MR. LINDABURY: This is redirect on your cross, justified by it, if not otherwise.

THE WITNESS: There has been a great development in the cement industry, perhaps more than in the steel. I do not know whether you would call that a basic industry or not, but outside of that, I do not think of anything that is comparable to steel.

MR. LINDABURY: That is all.

ROBERT HUTCHINS JEFFREY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Mr. Jeffrey, where do you live?

A. Columbus, Ohio.

Q. What is your business?

A. Manufacturing.

Q. Have you a corporation?

A. Yes, sir.

Q. What is its name?

A. Jeffrey Manufacturing Company.

Q. What relation do you sustain to it?

A. I am the vice-president and general manager.

Q. When was the company formed?

A. 1877.

Q. How long have you been vice-president and general manager?

A. I have been vice-president about eight years and general manager about five years.

Q. Were you connected with the company before you became vice-president?

A. Since 1895; yes, sir.

Q. I believe your father is president; is my recollection correct about that?

A. Yes, sir.

Q. Did he originate the business?

A. Yes, sir.

Q. He is still living?

A. He is still living.

Q. At what point does your company manufacture its products?

A. At Columbus, Ohio.

Q. What does it manufacture?

A. It manufactures coal mining machinery and elevating and conveying machinery of an engineering character.

Q. Does it manufacture on a considerable scale?

A. Yes, sir.

Q. How many men do you employ in your manufacturing business?

A. About 3,000.

Q. You use steel products, I take it, as a matter of course?

A. Yes, sir.

Q. What kind of steel products?

A. We use structural, plates, bars, sheets, both electric and blue annealed, copper, wire.

Q. Where do you buy your shapes and bars?

A. We buy them variously, from different companies throughout the country.

Q. Do you buy on contract for future delivery or from time to time as your needs require, or both?

A. Both. We usually make contracts for six months.

Q. The majority of your purchases——

A. Are on a contract basis.

Q. You obtain quotations before you make your contracts?

A. Yes, sir.

Q. From what concerns do you generally obtain quotations on shapes and bars? I suppose you obtain quotations on both of those from the same concerns, do you? That is, those which make shapes make bars ordinarily, do they?

A. Very frequently; as a general thing they do; yes, sir.

Q. That was my impression. From what concerns do you obtain quotations on those articles?

A. I suppose there are some ten or twelve of them.

Q. And has that been the case ever since you have been vice-president?

A. Yes, sir.

Q. Have you had to do with the matter of purchases during all that time, and before you became general manager?

A. I was purchasing agent for several years, and since that time I have had the supervision through the approval of contracts for purchase.

Q. When were you purchasing agent? That is, before you became vice-president, or afterwards?

A. Before.

Q. And about how many years?

A. About six years.

MR. DICKINSON: Give the period.

MR. LINDABURY: Before he became vice-president.

MR. DICKINSON: Can't he give the dates?

MR. LINDABURY: Yes.

THE WITNESS: My recollection is that I was purchasing agent in 1898 to about 1905.

By MR. LINDABURY:

Q. And since that time you have had the supervision of contracts?

A. In this way, that I approve the contracts before purchasing.

Q. Before approving the contracts, were the quotations brought to you?

A. Yes, sir.

Q. And what do you do then, preparatory to approval?

A. I always examine the quotations before approving the contracts?

Q. And did you select the one that received the award?

A. If I do not approve of it, I would have altered the decision of the purchasing agent, but usually I acquiesce in it.

Q. You mean, the purchasing agent would bring the quotation, with an indication of the one that he favored?

A. Yes, sir.

Q. And ordinarily your office was to approve or disapprove of that recommendation?

A. Exactly.

Q. Did the quotations on these articles generally vary, or were they generally uniform?

A. Which articles are you referring to?

Q. I am talking now about bars and shapes.

A. They frequently vary, sir.

Q. And is that true of the whole period of ten years last past?

A. I think I may say so; yes, sir.

Q. Can you give me an idea of the extent of your purchases of bars and shapes per annum, roughly? I do not ask for exactness.

A. I suppose bars and shapes would run about 100,000 per annum.

MR. DICKINSON: What?

THE WITNESS: $100,000; from $75,000 to $100,000. That is, bars, plates and structural.

By MR. LINDABURY:

Q. By "structural" you mean what we have just been speaking of as shapes, I take it?

A. Yes, sir.

Q. That term covers the structural material, does it not, ordinarily?

A. Yes, sir.

Q. Do you get the plates from the same concerns, or do you get quotations, rather, on plates from the same concerns as quote you on bars and structural shapes?

A. We sometimes get quotations on bars from concerns that do not manufacture either plates or shapes; usually the concerns that manufacture plates and shapes also manufacture bars.

Q. Do the concerns that manufacture plates ordinarily manufacture shapes and bars?

A. I should say ordinarily, yes, sir.

Q. You have answered as to quotations on plates; did you obtain them from as many concerns as quoted you on shapes and bars?

A. I don't think we did.

Q. Did you find the quotations on plates variant or uniform?

A. There is a frequent variation on those.

Q. More marked than the bars and shapes, or don't you recall that?

A. I cannot distinguish as to that.

Q. Did this variation extend not alone to periods, but to the different manufacturers in their quotations?

A. Yes.

Q. I understood you to speak of periods; perhaps you did not mean to, so I will put it: Was there a variation from time to time also in the quotations? I mean by that were the quotations generally higher sometimes than they were at other times?

A. Yes.

Q. Is that true of the whole period we have been speaking of?

A. Practically so.

Q. Has there or not been competition between manufacturers for your trade?

A. Yes.

Q. In shapes and bars?

A. Yes.

Q. And plates?

A. Yes.

Q. And is that true of the whole period of ten years that we have been speaking of?

A. Yes.

Q. What percentage of your bars have you bought from the Carnegie Company? I suppose you got those quotations from them, from the Steel Corporation?

A. Frequently.

Q. Did you buy from any other of the Steel Corporation subsidiaries than the Carnegie?

MR. DICKINSON: You mean bars?

MR. LINDABURY: Bars, yes.

By MR. LINDABURY:

Q. (Continuing) Did you buy any from the Illinois, or don't you remember?

A. Yes, we have bought from the Illinois.

Q. You can combine the two and tell us what percentage of your purchases you have made from the Illinois and the Carnegie in bars, as nearly as you can recollect.

A. During what period?

Q. Ten years. You can break it up and give it for different portions of the time, or average the whole time, as you are best able to.

A. It will approximate 30 per cent.

Q. How about plates?

A. About the same percentage.

Q. From whom have you gotten the other 70 per cent.? Give us the names if you recall them.

A. There are about 25 of them; I can't remember them all.

Q. Give us half a dozen of the largest, that is, the half dozen from whom you have made the larger purchases.

A. I have a memorandum here of the names.

MR. DICKINSON: Do you mean to say that there were 25 that you purchased from?

THE WITNESS: Yes.

MR. DICKINSON: Plate makers?

THE WITNESS: Not plates, bars.

MR. DICKINSON: The question was about plates.

THE WITNESS: I think he asked me first about bars, and then about plates.

MR. DICKINSON: I think the question was about plate.

THE WITNESS: Then I am wrong.

By MR. LINDABURY:

Q. Judge Dickinson calls my attention to the fact that the question you answered when you gave the number of concerns from whom you purchased was limited to plates. Do you mean that you purchased plates from as many as 25 concerns?

A. No, sir.

Q. What were you speaking of when you gave that answer?

A. I had reference to bars.

Q. You said something a moment ago about having a memorandum, showing the names of the concerns from whom you purchased?

A. Yes.

Q. You may use it if you wish.

A. My memorandum does not differentiate between bars, plates and sheets in these purchases.

Q. Have you a memorandum of the concerns, then, from

which you purchased some or all of these four lines of articles?

A. Yes.

Q. Well, you may give it that way; combining these, can you tell us what your percentage was of purchases from the Illinois and the Carnegie together?

MR. DICKINSON: Objection is made to the witness answering this question from a memorandum, the character of the memorandum not being shown, or how it was made.

THE WITNESS: I can if you will include sheets in that; otherwise not.

By MR. LINDABURY:

Q. How many does it make with sheets?

A. It will bring in the American Sheet & Tin Plate Company.

Q. What articles are there that you have combined?

A. I have got bars, plates, sheets and shapes.

Q. That is four; I spoke of four, bars, plates, shapes and sheets. Where do you get your sheets, so far as the Corporation is concerned?

A. The American Sheet & Tin Plate Company.

Q. What percentage of those four articles did you purchase from the Carnegie and the Illinois?

A. I should say between forty and forty-five per cent.

Q. Where did you purchase the others?

A. I have a list here of 24 companies.

Q. Give that.

A. Allegheny Steel, Cambria Steel, La Belle Steel, Bourne-Fuller Company, Oliver Iron & Steel Company, Cleveland Steel, Republic Iron & Steel, Stark Rolling Mills, United Steel, Portsmouth Steel, Youngstown Steel, Globe Rolling Mills, Follansbee Brothers, Forged Steel Wheel Company, Lackawanna Steel, Eastern Steel Company, Worth Brothers, American Rolling Mills, Ryerson Company, Colonial Steel, Steel Metal Manufacturing Company, Carbon Steel Company, Basset-Presley, and Anderson Steel.

Q. You have completed the list now, have you?

A. Yes, sir.

Q. From what concerns was this 40 to 45 per cent. purchased that you say you purchased from the Steel Corporation's subsidiaries?

A. From three companies.

Q. Name them.

A. The Carnegie, the American Sheet and the Illinois Steel.

Q. And from them you obtained 40 to 45 per cent. of what?

A. Bars, plates, shapes and sheets.

Q. Were your purchases of those four lines of articles considerable? Answer yes or no, please.

A. Yes.

MR. DICKINSON: Are you speaking from the memorandum now?

THE WITNESS: Yes.

MR. DICKINSON: This is objected to, then.

By MR. LINDABURY:

Q. Do you not remember independently whether they were considerable or not?

A. Yes.

MR. DICKINSON: Let me see that memorandum a moment, please.

MR. LINDABURY: I want him to use it.

MR. DICKINSON: He was putting it away.

MR. LINDABURY: I do not want him to put it away yet. I want him to use it now. You may see it in a few moments.

By MR. LINDABURY:

Q. Can you tell me what your purchases from those three subsidiaries in these four lines of articles amounted to in 1908?

A. They were $22,000 in 1908.

Q. You have not got that in tonnage?

A. No, sir.

Q. But in dollars?

A. In dollars; $22,000.

Q. What did they amount to in that year from all the others that you named?

A. $70,500.

Q. What about the next year?

A. From the three companies, $42,000; from the outside companies, $145,700.

Q. In 1909?

A. That was 1909, that last.

Q. Oh, yes. In 1910, then?

A. From the three companies, $84,000; from the other companies, $190,100.

Q. For 1911?

A. From the three companies, $91,800; from the other companies, $170,700.

Q. For 1912?

A. From the three companies, $76,000; from the other companies, $155,300.

Q. Have you anything for 1913?

A. I have the figures so far this year. From the three companies $92,800; from the other companies, $127,500.

Q. Have you the average worked out mathematically for each year?

A. Not for each year, but for the six years that I have the figures here.

Q. What is it?

A. On bars, plates, shapes and sheets, the average from the three companies in the United States Steel Corporation is 32.2.

Q. And the others of course——

A. 67.8.

Q. You have purchased other requirements in the market besides those; I think you mentioned wire?

A. Yes, sir.

Q. And copper, did you?

A. Yes, sir.

Q. Anything else?

A. Shafting and tubing and wheels.

Q. Have you a memorandum of all your purchases of all your requirements?

A. Yes, sir.

Q. Without going into too much detail, can you give me the percentage of the others that you have bought?

A. I can.

Q. Will you please do so?

MR. DICKINSON: You are still speaking from the memorandum?

THE WITNESS: Yes.

MR. DICKINSON: This is excepted to as incompetent.

THE WITNESS: I can give it from recollection.

By MR. LINDABURY:

Q. You may give it from recollection, and we will see how nearly the memorandum corresponds. Proceed.

A. I have already given the bars, shapes and structural. On copper and wire our purchases outside of the Steel Corporation were approximately 75 per cent.; on shafting, tubing and wheels our purchases outside were 100 per cent.——

Q. That is, you purchased nothing from the Corporation?

A. Yes, sir.

Q. All right. Go on.

A. The average of our total purchases in products manufactured by the Steel Corporation, which we buy, during the six years, was a trifle over 70 per cent.; approximately 70 per cent.

Q. Leaving 30 per cent. bought from the Corporation?

A. Yes, sir.

MR. DICKINSON: Have you the memorandum with you that you referred to?

THE WITNESS: Yes.

By MR. LINDABURY:

Q. Have you with you a memorandum of your detailed purchases from the outside companies?

A. As to dollars and cents, yes, sir.

MR. LINDABURY: You may give that to Judge Dickinson also.

THE WITNESS: This is a memorandum of the Corporation and outside purchases in bars, sheets, plates and shapes, and this is the summary of the purchases in the different classifications, with the percentages.

CROSS EXAMINATION

By MR. DICKINSON:

Q. This first memorandum which you refer to which is of purchases of bars, plates, shapes and sheets, please state when that was made up.

A. It was made up—this is Thursday—it was made up the latter part of last week.

Q. From what sources?

A. From our books.

Q. What character of books were they from which these figures were taken?

A. Our regular records, purchase ledgers.

Q. That is some books just showing purchases?

A. Yes, sir.

Q. Did you have a separate book showing purchases?

A. Yes, sir.

Q. And did it show the purchase, from whom you made the purchase of various kinds of articles, separated?

A. Yes; we keep classified records of our purchases.

Q. For instance, do you have one classification of plates, shapes and sheets; was that one classification on your books, or were they separate?

A. No, they are not kept in that form.

Q. That is what I wanted to get at, what form are they kept in?

A. They are kept in the form of purchases from different companies.

Q. Purchases from different companies?

A. Yes, sir.

Q. And what does it show, the name of the company?

A. Yes, sir.

Q. And the character of material purchased?

A. No, sir, I do not think it shows the character of material.

Q. What I mean is, would it show how much plate was purchased at a particular time from a particular company?

A. No, sir.

Q. Would it show how much sheets were purchased at a particular time from a particular company?

A. No, sir.

Q. Would it show how much shapes were purchased at a particular time from a particular company?

A. No, sir.

Q. What would it show; I just want to know.

A. It would show the value of a particular purchase and the date of the purchase, and probably the voucher number.

Q. That is to say, it would show from whom you purchased, the money value, but would not show the various kinds of things that you purchased under that particular transaction?

A. No, sir.

Q. Well, to illustrate: Would it show at a particular place a certain date, a purchase from the American Steel & Wire Company, so many dollars?

A. Yes, sir.

Q. And that is all it would show?

A. It would show the voucher number.

Q. What would that voucher show?

A. The voucher would show the character of the purchase together with the amount and the date of the invoice.

Q. Well, now, who made up this statement?

A. The auditor of the company.

Q. And this runs over a period of six years, doesn't it?

A. Yes, sir.

Q. He made it under your instruction?

A. Yes, sir.

Q. And made it as you say from the books?

A. Yes, sir; from the records of the company.

Q. What records?

A. From detailed records kept in the purchasing department as well as the books.

Q. Yes, but I want to know the particular records that were used in making up this particular memorandum, if you know?

A. He used the card records of purchases which we kept, together with the ledgers.

Q. Together with the ledgers?

A. Yes, sir.

Q. Now, he made that up and presented it to you?

A. Yes, sir.

Q. And you accepted that as correct?

A. Yes, sir.

Q. You made no examination of it yourself?

A. No.

Q. No verification of it yourself?

A. No, sir.

Q. Now, take the year 1908, independently of this memorandum, can you state, or have you any recollection as to the amount of purchases in bars, plates, shapes and sheets that you made from the Allegheny Steel Company?

A. No, sir.

Q. Well, can you state it as to any of these companies for any of these particular years?

A. Not accurately; no, sir.

Q. Well, you are only speaking from what this memorandum shows, made up in the way that you have described?

A. Yes, sir.

Q. And you do not undertake to speak otherwise?

A. Not as to details of purchases from each company; no, sir.

Q. You could not give these results just from the information you carry about it in your mind, could you?

A. Some of them; yes, sir.

Q. Now, take steel wire that you purchased from the American Steel & Wire Company. How much in money did you purchase for each of the years from 1908 to 1913 inclusive?

A. You mean each year?

Q. Yes.

A. If I should venture an answer it would be a guess.

Q. That is all it would be, wouldn't it?

A. Yes, sir.

Q. And that would be the same way as to any of these purchases for any of these particular years in respect to any of these parties from whom you bought, wouldn't it?

A. As to the detailed purchases from the different companies I could not give any accurate answer from memory.

Q. These figures all represent summaries, do they not; that is to say, you have no one entry in your book that shows the amount of wire purchased from the American Steel & Wire Company for the year 1908, have you?

A. No, sir.

Q. Then whatever figure appears here as showing that is a summary of various figures at various places in the books, isn't it?

A. Yes, sir.

Q. You do not undertake to carry those in your mind?

A. No, sir.

Q. And that is true with respect to all these various items for the various years?

A. Yes, sir; they are all summaries.

Q. You did not make them at all?

A. No, sir.

Q. Made by someone else?

A. Yes, sir.

MR. DICKINSON: We except to the testimony of the witness based upon these memoranda which he has used as being secondary, not made by himself, and shown to be hearsay.

MR. LINDABURY: I suppose you mean in so far as his testimony is based upon them?

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. I understood you to say, and if I am wrong please cor-

rect me, that for the last ten years the prices in shapes frequently varied?

A. Yes, sir.

Q. Well, there were periods, were there not, when they did not vary?

A. There have been periods, yes, sir.

Q. During that time?

A. Yes, sir.

Q. You do not undertake to state from memory what those respective periods were?

A. No, I would not.

Q. Or how long the duration of them was, when there were variations and when there were not variations?

A. No, sir.

Q. Now, isn't that also true in regard to plates?

A. Would you mind repeating the question so that I will get it clearly?

Q. Yes, I want you to get it clearly. I will put this question: Is it a fact that at times as compared with other times there would be variations?

A. Greater variations sometimes than at others.

Q. But there were some periods as contrasted with other periods where there would be variations?

A. Greater variations.

Q. Were there not periods extending over weeks or months at a time when the price would be substantially the same?

A. As to plates?

Q. Yes.

A. I do not recall.

Q. You do not recall anything about it, one way or the other?

A. I do not recall any definite periods at which prices of plates were uniform.

Q. Were there not periods among the larger manufacturers where over times embracing sometimes weeks at a time the prices of the large manufacturers were substantially the same on plates?

A. I think it is likely; I cannot recall definitely any period.

Q. You think that is likely?

A. Yes.

Q. How about shapes?

A. I should say the same remarks would apply to shapes as well as plates.

Q. When those quotations were obtained by the purchasing agent and laid before you, you looked at the results there, did you not, for making purchases?

A. Yes.

Q. Now, do you bear in mind particular prices throughout those six years, what you paid for particular contracts?

A. As to the detail prices, particular prices at particular times?

Q. Yes.

A. Definitely as to dollars and cents?

Q. Yes.

A. I know that in different years the prices have varied very considerably.

Q. Yes, but what I am asking about is whether you now carry in your mind the contract prices at which you made various purchases in those years in any of those articles that you have referred to, and if you have, I will be very glad if you would give the dates and the purchases and the extent of the purchases, and from whom you made them.

A. You mean the comparative prices?

Q. No, I don't mean the comparative prices; I mean the prices at which you traded.

A. I could not be positive about any price at any particular time.

Q. Could you be positive as to the quotations at any particular time?

A. You mean the price in the quotations?

Q. I mean the quotations made for any offer, of those who were seeking to sell to you.

A. You are not speaking of impressions; you are speaking of definite recollection as to exact prices?

Q. That is what I want, yes; I am not speaking of impressions.

A. No, sir.

Q. Do you carry any definite recollection of these various bids that were made at any particular time?

A. You mean again as to exact prices?

Q. Yes, that is what I mean.

A. For a fixed period?

Q. Any of these periods and any of these contracts that you made. If you do, just tell me which one you remember and what it was.

A. I could not say; no, sir.

Q. After these bids or quotations were laid before you and you made your purchases, you had no reason to carry that in your mind?

A. Not definitely.

Q. And you had no special reason to regard it after you closed the transaction; you were looking forward and not back?

A. I had no reason to carry it beyond the period of the next contract.

Q. They came with considerable frequency, did they not?

A. Yes.

Q. You made a number of contracts every year?

A. Yes.

Q. And you had no reason to charge your memory with bids a year back, or two years or three years back?

A. No, sir.

Q. And you do not carry it in your mind, do you?

A. Not in that way; no, sir.

Q. In what way do you carry it, if you carry it at all?

A. I carry it from impressions alone.

Q. Just from impressions?

A. Yes, I should say so.

Q. Well, how definite is that impression?

A. Well, I know that the prices, for instance, for one period were generally higher than for another period, or lower.

Q. Taking the period as a whole?

A. Yes.

Q. That is to say, you carry in your mind that there were certain periods that were characterized by higher prices as compared with others, which either preceded or followed them?

A. Yes.

Q. And certain other periods, *per contra*, that were characterized comparatively by the prices being lower?

A. Yes.

Q. And it is in that general way that you speak of your impressions?

A. Yes.

Q. And not with any definiteness in regard to the variation of bids on any special purchase made by you?

A. No.

Q. When did you yourself begin purchasing?

A. I think about 1898.

Q. Do you carry in your mind anything about the relative prices of bars in the year 1900?

A. No, sir.

Q. Do you carry in your mind anything about any marked change during the year 1900 in the prices of bars?

A. No, sir.

Q. Do you carry anything in your mind about the fact as to whether or not there was a drop of about $20 in bars during that year?

A. No, sir.

Q. You said you did buy wire, I believe, did you not?

A. Yes.

Q. From whom have you bought that—steel wire?

A. Well, I think we have bought particularly from two concerns, the A. Leschen & Sons Company of St. Louis, and the American Steel & Wire Company.

Q. What kind of wire is that you have been buying from the American Steel & Wire Company?

A. Steel wire.

Q. Of the wire bought by you in the year 1913, what proportion has been bought from the American Steel & Wire Company?

A. Practically all of it in 1913.

Q. Well, for 1912?

A. I think the same would apply to 1912.

Q. And 1911?

A. I think it was all purchased in 1911 from the A. Leschen & Sons Company.

Q. And 1910?

A. Prior to 1911, and for a period of ten or fifteen years back, we bought all of our wire from the A. Leschen & Sons Company.

Q. But for the last three years you got it all practically from the American Steel & Wire Company?

A. I think it is for the last two years.

Q. Can you give the sizes of those, of steel wire, the maximum and minimum?

A. It is cable; it is generally one-half, three-eighths and five-eighths inch steel cable.

Q. How much copper wire did you buy in the year 1913?

A. We buy very little copper wire.

Q. How much did you buy for 1911, 1912 and 1910?

A. For the last several years we have purchased very little copper wire.

Q. Would it be inappreciable as compared with your other purchases?

A. Just a minute. Let me modify that. By our not buying copper wire, I mean bare copper wire. We buy insulated copper wires quite largely.

Q. Is that different from the steel wires I asked you about?

A. Yes, sir.

Q. What tonnage have you bought in the year 1913 of insulated wire?

MR. LINDABURY: Copper, you mean?

MR. DICKINSON: The insulated wire he has just talked about.

By MR. DICKINSON:

Q. Is it copper?

A. Yes.

MR. LINDABURY: He said copper. I do not remember whether there is insulated steel wire or not.

By Mr. Dickinson:

Q. Did you understand the question?

A. You asked about the tonnage of copper wire?

Q. Yes; for 1913.

A. We never figure it in tons, but it would approximate $60,000 to $70,000.

Q. $60,000 to $70,000?

A. Yes.

Q. In the year 1913?

A. Per annum.

Q. How far back would it approximate that?

A. For ten years back, I should say.

Q. You have not increased your use of it in ten years?

A. We have, yes; I was speaking of an average.

Q. Take the year 1913; from whom did you buy this wire?

A. Insulated copper wires?

Q. Yes.

A. I should say from half a dozen different concerns.

Q. State who they were.

A. There is the Ansonia Brass & Copper Company; the Rome Copper Company—I don't remember the entire names of these concerns, but it is the Rome Insulated Copper Company, I think; John A. Roebling's Sons Company. I have a memorandum of the others if you will permit me to consult it.

Q. Is this all that you can recall from memory?

A. There is the Detroit; also the American Insulated Wire Company.

Q. Those are all you can name, are they?

A. Yes.

Q. Name them for 1912.

A. They would be practically the same concerns.

Q. How far back?

A. We have purchased from those five or six concerns that I have in mind for a number of years back; ten or twelve years, the most of them.

Q. Did you buy any of that at any time from the American Steel & Wire Company?

A. Insulated copper wire?

Q. Yes.

A. I don't know whether the American Steel & Wire Company manufactures insulated wire or not.

Q. At any rate, you have not taken any bids from them? You would not be apt to take any bids from a person you did not think made a thing?

A. I do not know whether they have or not.

Q. Then you do not know anything about it, whether they make it or not?

A. I don't know.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Jeffrey, whilst you do not recollect the quotations from the different manufacturers or the exact dates of those quotations, do you recall that, as a rule, they have been variant on the products about which you have testified, and not uniform?

A. Yes, sir; that is my recollection.

Q. Do you recall any time when all the manufacturers of plates,—not merely some of them, but all of them—quoted you the same price?

A. No, sir.

Q. And when there was uniformity of quotation did it ever extend beyond a few of those who made the quotations?

A. You are speaking of plates?

Q. Yes.

A. To what extent I cannot state, Mr. Lindabury.

Q. And when two or more happened to make the same quotation at a given time, did the same two or more make the same quotation at a later time, or were the groups broken up from time to time?

A. There was a variation among the different manufacturers.

Q. It would not be the same two or three agreeing time after time?

A. Not to my recollection; no, sir.

Q. That is true of the other materials also?

A. Yes, sir.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Do you say that you carry in your own mind any two bids made by two people at the same time; are you speaking as to that?

A. I am speaking of my recollection.

Q. Do you recollect any particular time, or are you just speaking generally?

A. I am just speaking generally.

Q. Do you carry in mind whether two people who bid at one time might be the same, and whether the same two people might be different at another time? Have you got any recollection about the details of that?

A. No, sir; not as to the details.

Q. Do you carry any twos and twos, as contrasted with any other twos and twos, in your mind for any of these various bids?

A. No different twos or no definite separation of that sort.

Q. And no contrasts of twos at one time with any twos at another time? You have nothing of that sort?

A. Except as to the impression the situation leaves upon me as to the idea of variations, which in my mind is distinct.

Q. The question was asked you: While the prices might be the same, were they, not as a rule, variant? What did you mean to have understood by saying that as a rule they were variant; what kind of a rule did you have in your mind when you answered that?

A. I meant the large percentage of the time.

Q. But you do not undertake to give the relative percentages there of these various times, do you?

A. No, sir.

Mr. Dickinson: That will do.

By MR. LINDABURY:

Q. Do you think that if any two important concerns had always been agreeing on the bids they put in, you would have forgotten that?

MR. DICKINSON: That is——

MR. LINDABURY: Oh, I will withdraw it; it is argumentative. That will do.

JOSEPH S. RALSTON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. What is your name?

A. Joseph S. Ralston.

Q. Your age?

A. Forty-nine.

Q. Place of residence?

A. Columbus, Ohio.

Q. Kind of business?

A. Builder of steel cars, president of the Ralston Steel Car Company.

Q. Is your business incorporated?

A. Yes, sir.

Q. What is the name of the corporation?

A. The Ralston Steel Car Company.

Q. What is your relation to it?

A. President.

Q. How long has that been incorporated?

A. About ten years.

Q. Did it originate ten years ago?

A. Yes, sir; about ten years ago.

Q. When did you become president?

A. Always been president.

Q. As president have you had the active oversight of the business?

A. Yes, sir.

Q. Did you state what that business is?

A. We build steel cars, steel freight cars.

Q. What is your capacity?

A. About 35 to 40 cars a day, 50-ton cars.

Q. How much steel do you use?

A. Well, when we are running full, about 10,000 tons of steel a year, excluding axles and wheels, of course.

Q. Suppose you include axles and wheels?

A. I could not really tell you; I am not very much on details, to tell the truth.

Q. What is your capitalization?

A. $5,500,000.

Q. All invested?

A. All but about a million and a half; we have got in the treasury about a million and a half.

Q. That is, the actual investment is about $4,000,000?

A. Yes.

Q. How many men do you employ?

A. We employ about 1,500 men.

Q. Where is your place of manufacture?

A. East Columbus, Ohio.

Q. Now, where do you obtain your plates?

A. We buy them wherever we can buy them the cheapest.

Q. Where have you found that you could buy them the cheapest? Always from one concern, or sometimes from one and sometimes from another?

A. They vary.

Q. Tell those from whom you have found that you could buy them cheapest, at different times during the years that you have been in business.

A. I have a memorandum here, Judge, and I do not know whether you will allow me to use it, because I have not got a very good memory.

MR. LINDABURY: You see, the Judge is not running this. I am, now. Never you mind about the Judge. It will be his turn later.

MR. DICKINSON: I can't help him using it, but I can object.

THE WITNESS: Here is a memorandum. Would you like to take this?

By MR. LINDABURY:

Q. Oh, no; I do not need it. It is a question whether you do or not.

A. Here, we buy from the Cambria Steel Company——

MR. DICKINSON: We object.

MR. LINDABURY: Just put that memorandum in your pocket, if you take my advice.

THE WITNESS: I am not a detail man; that is the trouble.

By MR. LINDABURY:

Q. Testifying from your recollection, tell us what concerns, so fully as you can recollect now, you have bought your plates from during the last ten years.

A. Well, we bought them from the Lackawanna Steel Company for several years.

Q. That is one.

A. We bought pretty near everything from the Lackawanna Steel Company for four or five years, and then we stopped that and bought from other different companies.

Q. Hold on, then; we will take that up. You bought all your requirements——

A. At one time from the Lackawanna Steel Company.

Q. You mean in shapes and bars as well as plates?

A. Yes, sir.

Q. As well as wheels and axles?

A. No, not wheels.

Q. Leaving out wheels and axles?

A. Yes, sir.

Q. When was that period?

A. That was up until about 1911.

MR. DICKINSON: From what time until 1911?

THE WITNESS: 1903 or somewhere—I really cannot remember dates, that is the trouble, but I know for about four years we bought from no one but the Lackawanna Steel Company, practically.

By Mr. Lindabury:

Q. Have you any memorandum with you to refresh your recollection as to the period when you bought exclusively from the Lackawanna Steel Company?

A. No, sir.

Q. Then you will have to go back on that old memory of yours and see what we can make out of it. When was it that you quit buying exclusively?

A. About five years ago.

Q. About five years ago?

A. Yes, sir.

Q. That would not be exactly 1911, would it?

A. I don't remember the dates; that is the trouble. I really do not.

Q. That would be 1909?

A. It was later than that.

Q. What is that?

A. Let me see. 1907 was the year of that panic, wasn't it?

Q. That was the year of the panic; you have got that right.

A. Yes; it was 1907.

Q. Was that when you gave it up?

A. That was when we quit dealing with them.

Q. You mean you quit dealing with them altogether?

A. Yes, sir.

Q. And since then where have you bought?

A. We have bought from the United States Steel Corporation, Cambria Steel Company and the United Steel Company, of Canton, Ohio; I don't know, several of them.

Q. Do you buy anything from the Lackawanna?

A. Yes; we buy from the Lackawanna.

Q. Anything from the La Belle?

A. Yes, sir.

Q. Anything from the Youngstown Sheet & Tube Company?

A. Yes; we have purchased from them too.

Q. You do not think of any other concerns?

A. The Eastern Steel Company.

Q. Any others?

A. I really do not remember any others.

Q. That will do; were your purchases from those concerns confined to plates or did they include bars and shapes?

A. Plates, shapes and bars. You might add the Republic also; we bought bars from them.

Q. Now, did you get these bars—I am speaking now of the period since the panic; you remember the panic, don't you?

A. Yes.

Q. You gave up the Lackawanna then?

A. Yes.

Q. Have your purchases since that time been made on periodical contracts or on what some of the witnesses call hand to mouth?

A. Well, we buy as a rule, if we are going after an order for some cars, we ask for protection from the steel company, and they give us a market price at the time. That is, as a rule; and then at other times we take a chance; it is just according to how we figure the market may be. If we think it is going off we take our own chances and gamble on that part of it.

Q. But if you think it is going up or likely to remain steady you ask for a protective quotation?

A. Yes.

Q. What do you mean by that?

A. In having our estimates made up we figure $1.30 steel; then we put in our price based on $1.30 steel with the railroads.

Q. You mean to say that if you get a quotation at $1.30 that you accept, then you put in your bids to the railroad on that basis?

A. Yes.

Q. Do you get these protective quotations from different concerns?

A. Yes, sir; we do. Of course with us there is really only a few, only two or three companies that will give you all the quota that go into a steel car; that is, that make all of it. There are others that make plates and do not make shapes.

Q. Which are the ones that can quote you on your whole specifications?

A. The Cambria Steel Company; and Jones & Laughlin can, although we do not get quotations now from them. And the Carnegie Steel Company; that is for cars I am talking about.

Q. Do you sometimes get quotations, however, from those who make only shapes or only bars?

A. Only plate, to fill in tonnage. We also build steel underframes for cars.

Q. Do you get these quotations from mills that make only the one line with some frequency?

A. Oh, yes.

Q. I mean separate quotations on plate alone?

A. Yes; one of the reasons for doing that is to kind of line up on the general market conditions.

Q. Do you get them with some frequency; that is what I mean?

A. Yes.

Q. Has that been so since the panic?

A. Yes.

Q. Have you kept pretty well informed as to the market conditions?

A. Yes; I try to.

Q. How do you get the information?

A. Well, I have our purchasing agent get the prices from different concerns who manufacture steel, and then I study the general conditions of trade and try to form a conclusion.

Q. Do you get the trade paper quotations?

A. Well, I don't go much on that.

Q. Why not?

A. Because I find that while the trade papers might say to-day that steel was $1.40 you can get $2 a ton under that. I have seen that. I cannot recall exactly, but I know that is a fact.

Q. So you do not go much on the trade paper quotations?

A. No; I do not. It is all right to have a basis, you know,

of general quotations, but I do not go on that in figuring for cars.

Q. You do not rely on it?

A. No.

Q. Have you found the quotations coming in from these different concerns on plates and shapes and bars to be uniform or have they varied?

A. They have varied; that is, you trade, you know.

Q. How is that?

A. They will generally come around to see you and try to get you to give them an order; and our purchasing agent figures with them and trades with them, with these different salesmen.

Q. Do you receive or have submitted to you their original quotations by your purchasing agent?

A. Oh, yes; I keep tab on that.

Q. Do their original quotations to you vary among themselves?

A. Well, they do in some respects; as a rule market conditions are about the same; that is, the conditions of trade, you know, make the price. To-day you might buy steel—if you go out now the way the mills are you can get steel a good deal lower than the market quotations, especially if you have a large tonnage to place.

Q. It is more advantageous to dicker on a large tonnage than a small one?

A. Oh, yes, always.

Q. Why?

A. The mills can have a longer run, and they will make more money by a longer run. In the manufacture of steel if they have a large order they can make more money than on a small one.

Q. Can you do better bargaining with them on a large order than you can on a small one?

A. Oh, yes.

Q. They give you better prices generally?

A. Oh, yes.

Q. I am not sure whether you were answering a little

while ago as to different periods of variation or steadiness or as to the difference in the quotations made to you at any one time by the different manufacturers; I meant to ask you about the latter. Have you found them generally varying?

A. Yes; they vary.

Q. Is that true of all the lines of product that you buy and that you have mentioned?

A. Yes; that applies to axles and shapes and plates.

Q. And bars?

A. And bars and wheels.

Q. Does it apply to each of the years that have passed since 1907?

A. Yes; I think so; I think it does.

Q. Now, for a time before 1907, as I understand it, your purchases were all from the Lackawanna?

A. Yes; that is, they were practically all from the Lackawanna.

Q. For how long a time was that?

A. I think we had a five year contract with the Lackawanna Steel Company.

Q. For all your supplies?

A. For all our supplies, based on the basic price of pig iron.

Q. And did that five year period expire in 1907?

A. No; it had some time to run, but by mutual consent we cancelled the contract.

Q. How long had it run?

A. It had run, I think, about four years.

Q. So that, during that four years, you were not buying on a competitive basis, apparently?

A. No, sir; we were buying on a market—as the market went up or down we got the benefit of that.

Q. But you did not get quotations, I take it?

A. No, sir; we did not ask for quotations, because we relied on their giving us an honest, square deal.

Q. Did you mention pipe?

A. We buy pipe; yes, sir.

Q. Much or little?

A. I really do not know how much we buy. I have no

figures. We buy considerable pipe, though. We use it in the cars, you know.

Q. You could not give us an approximate statement of the tonnage you buy?

A. No, sir; not from memory.

Q. Where do you get it?

A. I don't know where we buy the pipe. The purchasing agent could tell you about that. I let him handle that.

Q. Do you know whether there has been competition in that or not?

A. Yes; I know there has been. I understand from our purchasing agent that there has been considerable competition.

Q. But you have not learned that from your own contact with the business?

A. No, sir; just from my purchasing agent.

Q. Your purchasing agent has so advised you?

MR. DICKINSON: We object.

MR. LINDABURY: Yes. I shall not pursue that, of course. We will agree that it is not evidential.

By MR. LINDABURY:

Q. Have you found, in your dickering with the manufacturers, that it made any difference whether their mills happened to be full or not?

A. Yes, sir; it makes quite a difference.

Q. What is that difference?

A. They are not so eager to take orders at a reduced price, of course, when they have got their mills full, as they would be in times like these, with mills practically bare.

Q. Are there times when one mill is full and another is not?

A. Oh, yes. Last year, until recently, the steel mills had been full of orders, and they had all they could do. Now I understand they are very lean on orders.

Q. I am not asking you, now, about the times when all of them are lean or all of them are fat, but I am asking you about when one is lean and another one is fat. Under those conditions, which can you deal with better?

A. I would rather deal with the fat years.

Q. I was not asking you about the fat years and lean years, but about fat mills and lean mills.

A. I would rather deal with the fat mill.

Q. I thought you said you could buy cheapest from the mill that was lean in its orders.

A. So you can, but then you don't get any orders when the mills are lean. When the mills are lean, you can bet you are not getting any orders. That is the trouble. When the steel mills are idle, the railroads are not as busy.

Q. You take the leanness of the steel mill as an indication that your own trade is getting lean?

A. Yes; that has always been so.

Q. That is the reason you prefer fatness all around?

A. All the time, yes.

Q. General prosperity, you like?

A. Yes; I like to see everybody prosperous.

Q. You said sometimes you found one mill fat and another mill lean; one mill filled up and the other one not?

A. Yes.

Q. Which of those can you deal with better?

A. I go after a lean one, of course.

Q. For the reason you mentioned awhile ago?

A. Yes; to get the price.

Q. For the reason that a mill not filled up with orders will deal better with you than one that is filled up?

A. Yes; certainly.

CROSS EXAMINATION

By Mr. Dickinson:

Q. I understand you did not bargain and trade any as long as you had that contract with the Lackawanna?

A. Yes, sir.

Q. And that ended some time the latter part of 1907?

A. Yes, sir.

Q. So that what you have said about prices and variation and so forth would apply to the period since then?

A. Yes, sir.

Q. Take 1908: were you president of your company then?

A. Yes, sir.

Q. And what were your duties as president?

A. My duties as president were to get output and orders, and to keep the thing going.

Q. You had general supervision of everything, did you not, relating to the company?

A. Generally; yes, sir.

Q. You were the highest executive officer?

A. Yes, sir.

Q. And kept an eye upon every department?

A. Yes, sir; I tried to.

Q. This matter of purchases came primarily under the jurisdiction of the purchasing agent?

A. Yes; but of course he could not go out and buy a large quantity of steel without my sanctioning it.

Q. Still, while you sanctioned the contracts, so far as the taking of quotations and the dickering and bargaining were concerned, down to the time where the purchasing agent wanted some approval or some judgment as to which way it should go—all that he performed, did he not?

A. He attended to all of the details; yes, sir.

Q. And then presented to you the matter in a somewhat more highly finished form for you to act on?

A. Yes, sir.

Q. After he had taken up the question, based upon a prospective contract of your company for so many cars, and had taken bids looking to the quotations and deliveries he would recommend to you what seemed to be best in his judgment, would he not?

A. Yes, sir; he would recommend, and I would look into it.

Q. And if you were satisfied with his recommendation, you would approve it?

A. I like to deal with the Cambria Steel Company better than any, for the reason that the service is good, and that is what I was looking for. We have to look out for service, because if you do not get your stuff in there, you cannot yet your cars out.

Q. And that meant that you deal chiefly with the Cambria Company?

A. We have bought more steel from the Cambria Company than we have from any other company in the last few years.

Q. So, when the price was about right, on account of your predilection for the Cambria Coompany, you were inclined to deal with them, were you?

A. They gave us a better price, have given us a better price on axles and on steel, and they have given us excellent service.

Q. And you were very well content with them?

A. Yes, sir; I like them very much.

Q. So that all along your mind was rather predisposed to contract with them, if conditions permitted it?

A. Yes; if all things were equal.

Q. Take the year 1908: how many different purchases do you suppose your company made during that year?

A. That was a kind of a lean year. I don't remember. In 1908, you know, there was not much business.

Q. You made a number of cars during that year?

A. Not very many. We were partially closed down. The car companies were all up against it after 1907.

Q. Do you know anything about the price of plates in 1908?

A. No; I don't remember it.

Q. Do you remember anything about any bids, or variation in bids, for that year?

A. No, sir; I do not.

Q. You do not remember anything about that, do you?

A. No, sir; I do not.

Q. Let us come down to 1909, a more recent period; how many contracts did you make?

A. I don't know, Judge. I would have to have a memorandum right here. I really do not remember the details.

Q. You have not made up any memorandum?

A. Not on that; no, sir.

Q. You have no recollection of the various persons from

whom you solicited bids upon various contracts, and the bids that were made, and the variation in their bids?

A. We would go out after the prices from different concerns. I don't know whom we bought from.

Q. You do not know from whom you bought?

A. Not at those particular times. I cannot recollect.

Q. I am speaking now of the year 1909.

A. I cannot recall it, Judge, from memory.

Q. What recollection have you about the price that year and the variation in the price?

A. My recollection of the prices in that year is that they were kind of steady.

Q. And that is just a general impression of steadiness as compared with fluctuations in other years?

A. They tried to keep the prices steady, so as to keep people employed, you know.

Q. In your mind, then, 1909, so far as your recollection goes, was characterized by steadiness of the market?

A. My recollection is that people who had stockholders to make dividends for were trying mighty hard to make them for them.

Q. Of course you are always trying to do that?

A. Yes. That is what I get my salary for.

Q. Let us go back to 1909, and the question of the steadiness of the market that year as compared with other years. Your recollection is that it was characterized especially as being a steady year, in contrast with other years, in prices?

A. To the best of my recollection, I believe they were trying to keep the country from going into a panic. I don't know who, but different manufacturers were of the belief that it would be a good thing to prevent a panic; that is, to prevent there being a destructive panic.

Q. In 1909?

A. All along in there.

Q. Now, what did they do to prevent a destructive panic?

A. I have no more idea than you have; I could not tell you; I know I would not make any cheap business; that is all.

Q. Do you remember any contracts you made that year?

A. No, sir; I do not. I know it was mighty hard to get anything.

Q. Do you remember any prices that were taken, or bids?

A. No, they went very cheap.

Q. How?

A. Business was demoralized; that is, it was practically on a basis of it being entirely demoralized.

Q. Your memory is rather nebulous in regard to details of the business that year?

A. I cannot remember details.

Q. Could you give me any more exact information as to variation of prices that year?

A. That is my general recollection.

Q. Now, come down to 1910, we will cut a year off from that treacherous thing called memory. I am willing to tell you that I appreciate that point. I have got a poor memory myself at times. I do not always remember the questions I have asked.

Now, take 1910; how many separate contracts did you make that year for steel products?

A. I could not tell you.

Q. Could you approximate the number?

A. No, sir; I could not.

Q. Do you remember the times of year when you made those contracts?

A. No, sir; I could not tell you. I really do not remember.

Q. When your purchasing agent would take bids he would report to you the lowest bids, wouldn't he?

A. Yes, he would.

Q. There was no reason why he should report all of them?

A. Sir?

Q. I say bids that were made to him manifestly unreasonable there was no reason he should report them.

A. He would come to me, certainly.

Q. With what?

A. With whatever prices he had.

Q. But you have no recollection for the year 1910 as to what these prices were, or how they varied, or whether they

varied as to particular contracts in one part of that year as contrasted with another part of that year?

A. No, sir.

Q. Isn't it a fact that during portions of this period since 1907 on plates the bids of a number of the manufacturers would be the same before you would get to trading for a lower price?

A. I really could not answer.

Q. You could not answer as to that?

A. No, sir.

Q. Well, now, would that be true of all the various things you bought during the year 1910, I mean so far as you are able to remember?

A. We try to buy very cheap.

Q. Yes, I know, but I mean so far as you are able to answer without my repeating the questions as to these articles; I asked you about plates. Without my repeating them as to the various other things you bought, have you got any better memory as to others than you have as to plates?

A. No, sir; I do not know anything about the details.

Q. Have you got any better memory, could you give us any more distinct information as to the years 1910, 1911 and 1912?

A. Well, getting down to 1912 and 1913 business, there has been quite a variation in prices.

Q. That is to say, a variation in one part of the year as contrasted with other parts of the year?

A. Yes, sir.

Q. Is that what you mean by "quite a variation in prices"?

A. As an illustration, in the last two years steel has gone up and down.

Q. But you have been speaking of contrasting of prices, going up and down, haven't you?

A. Yes, sir.

Q. There have been periods in the last four or five years where for weeks or months at a time the prices would be steady, haven't there?

A. Well, it would be steadier in some ways.

Q. How?

A. In some ways it would; yes, sir.

Q. I did not get that answer.

A. Some ways it would be steadier; it just depends on what angle you are taking it at.

Q. The angle I am taking it at would be whether the prices would be the same over continuous periods of weeks or months at a time, and then there would be a change for another period.

A. The way we figure at Columbus we do not know what the other fellow is getting. We sometimes think he is getting a lower price than we are.

Q. You do not know what the other fellow is getting?

A. No; I wish I did sometimes.

Q. You get a bid, and then you begin to trade, do you?

A. Trade as hard as we know how.

Q. Sometimes do you get prices lower than the first quotations?

A. How is that?

Q. Sometimes when you actually traded did you get prices which were lower than the first quotations that were given to you?

A. Oh, yes.

Q. Take the year 1911; do you know how many contracts you made in that year?

A. No, sir; unless I had the memorandum.

Q. Take any of these various things that you bought that year of these various kinds; do you know the people on any of those contracts whom you solicited bids from whether the bids were alike, or whether there was any variation?

A. There was certainly variation.

Q. You are speaking generally now.

A. Yes, sir.

Q. As between one time and another time?

A. Always.

Q. Do you mean to say there was always some time when all of them were not the same?

MR. LINDABURY: I do not think that is fair. That is not what he said at all.

MR. DICKINSON: Let us see if he did. I am asking what he means.

THE WITNESS: All of what?

By MR. DICKINSON:

Q. All of the bidders.

A. For our business?

Q. Yes.

A. Certainly there are times; there is always a variation.

Q. Do you mean that there is always a variation?

A. Yes, sir; you can always get some reduction some way or other.

Q. I am getting at the bids that were made, the first quotations; was there ever a time when there were not a number of them which on the first quotation gave you the same price before you went to dealing, and actually then you will get a better price by trading?

A. As a rule you can always get a lower price.

Q. That is, you can get a lower price than the price first quoted?

A. Yes, sir.

Q. But what I am asking you is if it did not frequently happen that the prices first quoted by the manufacturers who bid on a particular contract were the same?

A. Unless I had the memorandum here I could not answer that.

Q. You do not remember how that was?

A. No; I do not understand your question. That is the whole thing.

Q. I will try to make it more plain to you. I understand that your purchasing agent solicited bids; that is a fact, isn't it?

A. Yes, sir.

Q. Would he, then, submit those bids to you as just made or would he go on and make the best bargain that he could?

A. Well, he would come to me and tell me what he had, show me what he had, and give me his opinion, and then I would start in and see what we could do.

Q. Then he first would get the bids?

A. Yes, sir.

Q. He would show them to you?

A. Yes, sir.

Q. And give you his opinion?

A. Yes, sir.

Q. And then you would start out to get something better than that?

A. I would try to.

Q. And you frequently got better than that?

A. Yes, sir.

Q. And the size of your transactions enables you sometimes to do that?

A. Well, that would have some effect, yes, too, and then the rollings that could be got at the mills, some mills would have certain rollings that they could add a little more tonnage of the size that we could give them, and that would have an effect on them, and different things.

Q. With that explanation which you have given, what I want to ask you is whether or not you could undertake to say now that you recall the contract or any contracts for any years during 1909 or 1910, or 1911, where you know that the original bids were not all the same?

A. I am pretty sure that there was, but I am not positive unless I have the memorandum here.

Q. You are pretty sure of what?

A. That there were variations.

Q. That there were variations?

A. Yes, sir.

Q. What would you call a variation?

A. A dollar a ton, two dollars a ton.

Q. You mean would you call it a variation if some one differed from all the others; would you call that a variation?

A. I call it a variation where you get it cheaper from one man than you could get it from another.

Q. Then if any one of the bidders bid a lower price than all the others, you would call that a variation, wouldn't you?

A. I would think that was a variation.

Q. How?

A. Yes, to a certain extent.

Q. Can you undertake to say what kind of variation there was as to the bidders under any of these contracts?

A. Not unless I had the memorandum.

Q. And as to whether one or more of them were alike, or several of them were alike, or whether one was below a number of others, you cannot now undertake to say?

A. Not unless I had the memorandum.

Q. And you haven't that, have you?

A. No, sir; not that memorandum.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Do you remember whether the variation among these different concerns was confined to one or two, or general, ordinarily?

A. General.

(Whereupon an adjournment was taken until to-morrow, Friday, November 21, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND SIXTEENTH DAY.

71 Broadway, New York City,
EMPIRE BUILDING,

Friday, November 21, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY and MR. REED.

LEIGH H. ELLIOTT

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. Cleveland, Ohio.

Q. What is your age?

A. Fifty-three.

Q. What is your business?

A. I am the secretary and treasurer of the Bourne-Fuller Company, jobbers in iron and steel products.

Q. It is an Ohio corporation, is it not?

A. Yes.

Q. How old is that jobbing house?

A. The Bourne-Fuller Company and its predecessor, the Condit-Fuller Company and Condit, Wick & Company and various others before it, 45 or 50 years, I think.

Q. How long has it existed in its present form of organization?

A. For about twenty-five years, with a change of name, but no change otherwise.

Q. When did you become secretary and treasurer?

A. About twelve years ago, to the best of my recollection. I have not the date exactly in mind.

Q. What is the business of that company more in detail? It is a jobbing house handling what?

A. Bars, plates, structural shapes, pipes, boiler tubes, steel sheets, light plates.

Q. Does it handle general hardware?

A. No.

Q. Entirely these steel products?

A. Yes, sir.

Q. Is its annual turn-over large?

A. Yes.

Q. One of the largest in the Middle West, is it not?

A. Yes.

Q. What tonnage of steel products does it handle per annum?

A. They have been averaging for the past two years about 200,000 tons per year, iron and steel.

Q. Have you a warehouse?

A. We have two.

Q. Where are they?

A. Cleveland and Cincinnati.

Q. Have you maintained them for some time?

A. We have had the Cleveland warehouse for a great many years, and the Cincinnati warehouse we have had for the last four or five years.

Q. Do you have anything to do with buying for your concern?

A. Yes.

Q. Have you a purchasing agent by that name?

A. No.

Q. Who performs the duties ordinarily performed by a purchasing agent?

A. I do.

Q. Has that been the case ever since you have been secretary and treasurer?

A. Yes. I think I did some of that before I was secretary, some years before. I am not quite sure of that.

Q. Does or not the Bourne-Fuller Company purchase its supplies on a competitive basis?

A. Yes.

Q. Do you buy under periodical contracts, generally, or generally from time to time for immediate requirements?

A. Both ways. Probably the larger tonnages are under contract, short-time contra ts.

Q. And before making contracts do you ordinarily obtain quotations?

A. Yes.

Q. With respect to bars, from whom do you ordinarily obtain quotations?

A. From all the large manufacturers of steel bars in the Central West.

Q. That includes, of course, the Pittsburgh district?

A. Yes.

Q. And the Chicago district?

A. Very little in the Chicago district. You cannot bring bars from Chicago to Cleveland very well.

Q. I wish you would name the concerns.

A. The Carnegie Steel Company, Jones & Laughlin, Cambria Steel Company, Lackawanna Steel Company, Republic Iron & Steel Company are the principal ones.

Q. Do you make your purchases of plates and shapes in the same way?

A. Yes, sir.

Q. Largely under contract?

A. Yes.

Q. And obtain quotations after about the same principle?

A. Yes.

Q. And from whom do you invite quotations on shapes?

A. The same people mentioned there except the Republic Iron & Steel Company, who make very few shapes.

Q. And from whom do you obtain your quotations on plates?

A. We could add to that list above the La Belle Iron Works of Steubenville, the Otis Steel Company of Cleveland, Worth Brothers, Coatesville; Lukens Iron & Steel Company, Central Iron & Steel Company of Harrisburg.

Q. Did I rightly understand you as saying that those are in addition to the ones from whom you obtained the quotations on bars and shapes?

A. Yes.

Q. They also quote you on plates?

A. Yes, sir.

Q. Have the quotations that you have received on these various articles generally been uniform or generally variant?

A. They have varied.

Q. And is that true of the whole period that we have been speaking about, ten or twelve years, since you have been secretary and treasurer?

A. Yes, sir.

Q. And is it true of each of the articles mentioned, namely, bars, plates and shapes?

A. Yes.

Q. Do you ordinarily make your contracts on quotations you receive, or do you ordinarily follow them up by negotiations?

A. Almost always by negotiations.

Q. Has it been your experience that the manufacturers generally quote their best price in response to such general invitations as you have alluded to?

A. No.

Q. So that you have generally been able to negotiate at a better price?

A. Yes.

Q. How do the prices that you have been paying correspond with quotations in the Iron Age and Iron Trade Review, if you are familiar with those?

A. They are sometimes more and sometimes less than quoted by the trade papers.

Q. I suppose you do keep familiar with the trade paper quotations?

A. Reasonably so; I do not read them every week.

Q. Do you rely on them?

A. As a general guide.

Q. Why as only a general guide?

A. Because they are not always correct.

Q. In the majority of instances have you had to pay the quoted price, or a different one?

A. A different one.

Q. Are there times when the prices are higher generally, and other times when they are generally lower? I mean, are there periods when the prices at which you are able to buy are lower, and others when they are higher than the trade paper quotations?

A. At times, when material is plentiful and business is being actively solicited, the prices are usually lower than the current quotations in the trade papers. In times of scarcity and when deliveries are very much extended, we pay premiums over the prices quoted in the trade papers as being the current prices.

Q. Now, that statement applies to prices you actually pay. I want to go a step farther and ask you whether or not the prices quoted to you in response to your invitations agree with the trade paper prices, or whether they vary. You have already said that they vary among themselves; I suppose it goes without saying?

A. They always vary.

Q. Would there be times when two or more concerns might quote the same prices?

A. Yes.

Q. But generally speaking, there was a variance?

MR. DICKINSON: I object to that as leading.

MR. LINDABURY: I will withdraw it.

By MR. LINDABURY:

Q. What percentage of your requirements of bars have you bought during the last ten years from the Carnegie Company? Has there been any evenness about it?

A. It has varied considerably. I should think in the last ten years we have had about 80 per cent. of our bars from the Carnegie Steel Company.

Q. How low has it been in the lowest years?

A. I think as low as 25 to 30 per cent.

Q. Did this difference depend upon price quotations?

MR. DICKINSON: I object to that as leading.

By MR. LINDABURY:

Q. (Continuing) As compared with price quotations of other concerns?

A. Yes.

Q. What percentage of shapes have you bought from the Carnegie Company?

A. Probably 70 per cent.

Q. And that is the average of the years we have been inquiring about?

A. Yes.

Q. Has that percentage varied considerably one year with another?

A. Yes.

Q. And for the same reason as the variation in the purchases of bars that you referred to?

A. Yes.

Q. Now, as to plates, what percentage of your plates do you buy, on the average, from the Carnegie Company?

A. Probably 20 per cent.

Q. Has there been a variation there again, one year as compared with another?

A. Yes.

Q. Have you purchased any of those articles, bars, shapes and plates, from any other of the Corporation's subsidiaries than the Carnegie Company?

A. There is no other subsidiary company making them except the Illinois Steel Company, and we have bought very sparingly from them at times, when our necessities required it.

Q. Would the percentages you have given be appreciably affected if you took account of the purchases from the Illinois Steel and added them to the Carnegie Company?

A. No.

MR. DICKINSON: Will he say what he bought from the Illinois?

MR. LINDABURY: Yes, he may, and when.

MR. DICKINSON: I only want to know just what kinds. You have asked about bars, plates and shapes, and he has not shown the classes of those.

THE WITNESS: It is a very small quantity; I cannot recall it at this moment, just what it is; but I know there have been some small purchases made from the Illinois.

By MR. LINDABURY:

Q. Do you remember whether they were bars, plates or shapes?

A. I do not recall. I think it was plates and shapes, however; I do not remember any bars.

Q. Some years ago, or recently?

A. Within two or three years, probably.

Q. I think you mentioned sheets; I am sure you did, as one of the classes that you handle.

A. Yes.

Q. Did that include both galvanized and black?

A. Yes.

Q. Do you purchase a considerable tonnage of those?

A. Yes.

Q. From whom have you been obtaining them?

A. Ten years ago we were probably purchasing 90 per cent. from the American Sheet & Tin Plate Company; we are now probably purchasing five per cent. from the American Sheet & Tin Plate Company.

Q. When did you begin to purchase a lesser percentage from the American Sheet & Tin Plate Company, if you recall?

A. I would say six years ago.

Q. That is, up until that time you continued to purchase about 90 per cent. from them?

A. About that date.

Q. Has the reduction of the percentage of your purchases from them since that time been gradual, or did it all occur at one time?

A. It has been gradual.

Q. How happens it that you have been purchasing lately not over five per cent. from them?

A. We have better prices from other people.

Q. That was the sole reason?

A. That was the sole reason.

Q. What is the reason you have only purchased 20 per cent. of your plates from the Carnegie Company?

A. Got better prices elsewhere.

Q. Their service was as good as any, was it?

A. Not always; it varies from time to time.

Q. Was their quality as good as any?

A. Yes, sir.

Q. Has any reason except that of price to any considerable extent affected your purchases; I mean has the price generally been the controlling factor?

A. Yes, sir.

Q. Sometimes deliveries I suppose?

A. Well, deliveries always enter into a purchase to a greater or less extent.

Q. But what I meant to inquire about was whether generally you were able to obtain as good deliveries from one as the other.

A. No; that would not be true; there are many times when deliveries especially of plates would not be as good from the Carnegie Steel Company as they would be from the other people.

Q. That entered into the matter to some considerable extent?

A. Yes, sir.

Q. Do you handle boiler tubes?

A. In a small way.

Q. From whom do you purchase them?

A. Do you want to know the firm from whom we purchase them, or do you want to know whether we bought them of the Corporation or somebody else?

Q. The latter is the principal thing I meant to ask you.

A. Outside of the Corporation almost altogether in the last few years.

Q. Was that again a question of price?

A. Yes, sir.

Q. Has there been competition during the last ten years between the manufacturers in the sale of these articles that you have purchased?

A. Yes, sir.

Q. Is that true of all the years covering the period inquired of?

A. Yes, sir.

Q. And of each and every article spoken of?

A. Yes, sir.

Q. Has that competition been active?

A. Very.

Q. Are you visited by the sales agents of these different manufacturers?

A. Yes, sir.

Q. Frequently?

A. Yes, sir.

Q. And for what purpose?

A. For the purpose of selling their products to us.

Q. And how have they attempted to do it?

A. Through their sales offices, through their salesmen.

Q. And by the quotation of competitive prices?

A. Yes.

Q. All the different concerns?

A. Yes.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Elliott, your company has some affiliation with a steel mill, hasn't it?

A. With the Upson Nut Company, of Cleveland.

Q. Any others?

A. No.

Q. What was the name of that company?

A. The Upson Nut Company.

Q. What is the relation between your company and that?

A. We are interested as stockholders in the Upson Nut Company.

Q. Aren't you interested in the Union Steel Company?

A. Not as a company; the Union Rolling Mill Company.

Q. Union Rolling Mill Company?

A. Of Cleveland.

Q. What affiliations has your company, either by stock

ownership or by the officers or directors or stockholders of your company being interested in that company?

A. We are not interested in it except we sell their stuff, we sell their bars.

Q. Do you sell it as an agent or do you buy it?

A. Buy and sell.

Q. Buy and sell from them?

A. Yes, sir.

Q. How long have you had that relationship with this company?

A. Ever since I have been connected with the company; ten to twenty years. Prior to that I don't know how long.

Q. Now, take the last ten years. What has been the production of that company in bars?

A. That company has produced somewhere from three to five thousand tons a month, depending upon their ability to get orders.

Q. Has that constituted the largest volume of bars handled and sold by your company?

A. May I explain that the Union Rolling Mill Company is a bar iron mill, not a bar steel mill.

Q. When you speak of the volume of your business do you cover iron as well as steel?

A. Iron and steel.

Q. What proportion of that in volume would be represented by iron and what by steel?

A. In bars?

Q. No, in the whole of your business?

A. There would be probably 60,000 tons a year of bar iron.

Q. My question is your entire annual business, part being iron and part being steel, what percentage of that do you handle in iron products and what in steel?

A. Approximately 30 per cent. in iron and 70 per cent. in steel.

Q. You say you have no purchasing agent?

A. We have no purchasing agent.

MR. LINDABURY: He said he had no purchasing agent by that title.

By Mr. Dickinson:

Q. And you, yourself, have been doing the purchasing the last ten or twelve years?

A. Yes, sir.

Q. Have you done it altogether?

A. When I was at home I did it.

Q. And when you were not at home who did it?

A. Probably our president, Mr. B. F. Bourne.

Q. On what occasions are you absent from home? Just give me a general idea. Are you in any other business anywhere?

A. Occasionally for a week or two on a vacation.

Q. You have no other business?

A. No, sir.

Q. You are not called away by any other business?

A. No, sir.

Q. And other than on such absences you handle all of the purchasing?

A. Yes, sir.

Q. Now, take the first year when you began making purchases; give the year.

A. I could not give you the year.

Q. Did you begin as far back as——

A. (Interposing) Very early in my connection with the Company; I went with them in 1893; very soon after that I did some purchasing.

Q. These prices that you have testified to and purchases, and the variation as to prices and competition, how far back did you intend to cover by those answers?

A. As far back as there has been a Steel Corporation.

Q. How?

A. As far back as the organization of the Steel Corporation.

Q. Then you intended to cover from April, 1901, down to the present time?

A. If that was the date of the organization of the Steel Corporation.

Q. Now, you bought plates in 1901?

A. I presume I did.

Q. In 1902?

A. I presume I did.

Q. In 1903?

A. Yes.

Q. In 1904?

A. Yes.

Q. Have you any special recollection about making those purchases; does your mind carry any of the facts in regard to those purchases?

A. Details of purchases?

Q. Yes.

A. Nothing special comes up to me, no special occurrences.

Q. What do you remember about it that you can distinctly reproduce from memory?

A. I remember we were buying and selling plates all through that period.

Q. And is that all that you do remember about it?

MR. LINDABURY: I object to a question which asks the witness to exhaust his memory upon all the matters that ever happened, without specifying any particular one.

MR. DICKINSON: I do not know what he is carrying in his memory, and I am trying without asking too many questions to find out what he does remember from 1901 to 1904, about the purchase of plates.

THE WITNESS: You are going back a good many years, and I know that we were trading in plates all through that time. What special thing would you like to know?

By MR. DICKINSON:

Q. Do you know in the year 1901 the number of contracts you made in plates, the tonnage covered by those contracts, from whom you made the purchase, and prices that you paid, the persons that you solicited to bid upon these several contracts, the quotations that they made to you? Just give me all that you remember about that, will you?

A. I could not remember a specific case, the price or tonnage. It is too far back. I don't remember those things.

Q. Or the quotations?

A. I don't remember the quotations. I do not remember what the price of plates was at that time.

Q. Do you remember who made bids on any contracts at that time?

A. The people I have mentioned, Jones & Laughlin, Cambria Steel Company, Otis Steel Company, various manufacturers of plates; the Park Steel Company were making plates at that time.

Q. Those were the people making plates then?

A. We bought plates of those people, as far as I remember. We bought plates of all these people during the period mentioned.

Q. Do you remember, as a matter of fact, that you did, during the year 1901, buy plates from each of those people?

A. I could not say that we bought of each of those people during the year 1901.

Q. Could you say which of them had any particular contracts, or which of them you solicited bids from?

A. I could not recall the plant and the years.

Q. Could you say that you recall quotations that they made, or anything about the quotations, in the year 1901?

A. I don't remember the price of plates in 1901.

Q. Do you remember anything about the quotations that were made in 1901?

A. Would it be sufficient to say that we bought plates and sold plates in 1901?

Q. That may be sufficient for you, but it is not sufficient for me. I want you to say what you remember.

A. I am unable to go any further with that kind of a question.

Q. That answer is as far as you can get to that question?

A. I remember that we bought and sold plates in those years.

Q. And that is as far as you remember?

A. That is as far as I remember.

Q. You say those years. What years do you mean?

A. 1901, 1902 and 1903, I think you specified.

Q. I also said 1904.

A. And 1904.

Q. Would your answer also take in 1904?

A. 1904.

Q. Don't you know that from 1901 down through 1904 there was a plate pool, in which a number of the people whom you have named as competitors in plates were engaged?

A. I don't know that there was a pool.

Q. Don't you know that that was a matter of common notoriety and talk in your business?

A. Would it be sufficient to say that we bought plates and sold plates at a profit during that period? How could there have been a pool?

Q. I am not arguing the question with you, and I am not calling for any argumentative answers. I am just calling for an answer to that question, if you can give it.

A. All I know of the pool is from the newspaper talk or trade paper talk or general talk.

Q. Was not that common newspaper talk of the papers published in the iron and steel business at that time?

A. I think there was talk at that time of a pool or an agreed price on plates.

Q. Don't you know that during that period, as compared with other times, there was a greater constancy of price maintained in plates?

A. I think so, yes. I think there was.

Q. Don't you know that during that time when you got bids from some of those that you have named, these bids variously, at various times, were the same?

A. Some of them were the same.

Q. Did not that frequently occur during that period?

A. With some people it did.

Q. I mean with some of the people that you have named, from whom you say you made purchases?

A. There was always a difference in the price. Somebody had a lower price than somebody else.

Q. You mean there was a difference in the price you paid from the price that was quoted?

A. Yes.

Q. That is to say, after you got quotations and made negotiations, you could always get some difference from the quoted price? Is that what you mean to say? If not, just say what you do mean to say.

A. I think I can safely state that we would always get a lower price from somebody than the price which was originally quoted.

Q. By the people from whom you solicited bids?

A. Yes.

Q. Is it not a fact that when you were soliciting bids during that pool period you generally got the same price, and afterwards, in negotiation, you were able, as you say, to get a lower price from somebody?

A. I would not state that we got the same price from those people. I do not think we asked for a price, in the ordinary sense of the term, by asking all the plate makers for a price.

Q. What do you mean by saying that you do not think you asked for a price in the ordinary sense of the term?

A. We did not send out a lot of letters asking "What is your price on plates?"

Q. You are speaking, now, of the period from 1901 to 1904?

A. Yes.

Q. Let us take not some particular case, but some case that would be illustrative: suppose during that time you were going to make a purchase of plates; what method did you pursue?

A. We laid the business before the plate maker and asked him for the best price he would make on it.

Q. And if the price suited you, you bought from him?

A. We bought from him.

Q. That is to say, you would lay a particular transaction before some particular plate maker, and if you made a satisfactory deal with him, you consummated that deal, without taking quotations from any one else?

A. Yes.

Q. And that was done throughout that period?

A. Yes.

Q. How long did you continue that method of making your purchases; down to what period?

A. That is our method even to-day, to a certain extent.

Q. Have you generally continued that same method down to the present time?

A. Just about the same method.

Q. Just about the same method?

A. Yes; there might be some little variation in our way of making purchases.

Q. But generally that has been your method?

A. Yes.

Q. From 1901 down to the present time?

A. Yes.

Q. I was asking you about plates. Would that apply also to bars and shapes and sheets?

A. Yes.

Q. Now, take the year 1913; what proportion of your bars have you bought from the Carnegie Company up to this time, what percentage of your requirements?

A. I should think it would be less than the average I gave you a while ago, 80 per cent.

Q. How much?

A. Probably not over 60 to 70 per cent.

Q. For the year 1912 what percentage have you got of bars from the Carnegie Company?

A. About 80 per cent. in 1912, I should think.

Q. And in 1911?

A. The same as 1912.

Q. About 80 per cent.?

A. Yes.

Q. And 1910?

A. I think the year 1910 was the small year I referred to a while ago, 30 to 40 per cent.

Q. 1909?

A. Previous to that time, in 1909 back to 80 per cent. again.

Q. How about 1908?

A. Approximately 80 per cent.

Q. From 1907 back to 1901, inclusive, what would it be?

A. Approximately—I am not sure about those earlier years, 1901, 1902 and 1903; I should think perhaps it might have been less.

Q. Through 1901, 1902 and 1903?

A. Yes.

Q. I will ask you about through 1907 back to 1904, inclusive, what would it be?

A. It would be a very large proportion, I should think 80 per cent.

Q. That would be 80 per cent. for each of those years?

A. Yes.

Q. From 1901 to 1903 what would it be?

A. You are getting down my proportion of 80 per cent. over that period.

Q. I am not getting anything down except what you are telling me.

A. I have stated it would be a proportion of 80 per cent. over those years.

Q. Over what years are you talking about?

A. In 1901, 1902, and 1903, we will say 70 to 80 per cent.

Q. 70 to 80 per cent.?

A. Yes, sir.

Q. Now taking up shapes, in the year 1913 how much have you bought from the Carnegie Company in shapes?

A. 70 per cent.

Q. And in 1912 how much from the Carnegie Company?

A. Probably 80 per cent.

Q. 1911?

A. 70 to 80 per cent.

Q. 1910?

A. 70 to 80 per cent.

Q. Well, is there any material difference from 1909 back to 1901, inclusive? If so, state it.

A. There might be some period in there where it would run less; I should think it probably would in the earlier years.

Q. It may save time, if you have any particular year, to give that, and then give the other years so as to save answering about each year.

A. I could not answer for each year, but I think it would be smaller back of 1907.

Q. For 1909 and 1908 it would be from 70 to 80 per cent.?

A. Yes, sir.

Q. Take 1907; what would you say?

A. About the same.

Q. In 1906?

A. About the same; and prior to that time back to 1901 it was something less than that.

Q. What would you give that?

A. 60 per cent.

Q. 60 per cent. from 1901 to 1905, inclusive?

A. Yes.

Q. 60 per cent.?

A. Yes.

Q. Now take plates; in the year 1913 what percentage of plates have you bought from the Carnegie?

A. Probably 20 per cent.

Q. From whom else did you buy plates in 1913?

A. The Otis Steel Company, La Belle Iron Works, Worth Brothers Company, and the Central Iron & Steel Company.

Q. From anyone else?

A. Portsmouth Steel Company; I forgot them; that is about all.

Q. In 1913 what has been your total tonnage of plates?

A. I have not those figures in mind.

Q. Can you approximate it?

A. Probably two or three thousand tons a month.

Q. Is that as near as you can come to it?

A. Yes.

Q. Has it been a constant average you are getting?

A. In good times.

Q. I am speaking of the year 1913.

A. Yes.

Q. What tonnage in 1913 have you bought from the Carnegie Company?

A. Of plates?

Q. Yes.

A. About 20 per cent.

Q. I know, but give me the tonnage, if you can?

A. If I was getting 2,000 tons a month for ten months it would be 20,000 tons, and 20 per cent. of that would be 4,000 tons, and that would be as much as we have had that would be putting it at a large figure.

Q. Have you had any written contracts with the Carnegie for the year 1913?

A. Yes.

Q. How many?

A. Two, I think.

Q. When was the first one made?

A. Made some time last year for the first quarter, and a little later another one was made for the second quarter of the year.

Q. Last year?

A. Yes.

Q. Have you made any contracts for the year 1913, during the year 1913?

A. I think we have made one since the first of the year covering some material for the second quarter of the year.

Q. What time did you make that contract?

A. I could not give you the date.

Q. What tonnage did it cover?

A. I think it was 20,000 tons of material; 20,000 to 30,000, or 20,000 to 25,000 tons.

Q. To be delivered within what time?

A. To be specified before the 1st of July.

Q. Of the year 1913?

A. The year 1913.

Q. Now, what other written contracts did you have with other people for plates made during the year 1913?

A. This tonnage is not a plate contract. You asked me what contracts we had with the Carnegie Steel Company.

Q. But I was asking you about plates, so you had better change it.

A. This general contract covered bars, plates and shapes.

Q. Bars, plates and shapes?

A. Yes, bars, plates and shapes.

Q. That was 20,000 tons of bars, plates and shapes?

A. I think it was a minimum of 20,000 tons.

MR. LINDABURY: I take it that is not quite as he stated it. It is bars, plates or shapes.

THE WITNESS: And shapes.

MR. LINDABURY: You might specify any of them——

MR. DICKINSON: I was just using his language.

THE WITNESS: Bars, plates and shapes.

By MR. DICKINSON:

Q. You have this year, as I understand you, but one contract with the Carnegie Steel Company, and that was made the early part of the year; it was for bars, plates and shapes, and covered 20,000 tons; that was minimum, was it?

A. Yes.

Q. And the deliveries were to be called for by the 1st of July?

A. Yes. I beg your pardon; you say "deliveries were to be called for by the 1st of July." It was to be specified prior to the 1st of July.

Q. That is to say, you were to specify what kinds and amounts of those various things, before the 1st of July, that you would elect to take under this contract?

A. Yes.

Q. What contracts did you have?

MR. LINDABURY: Would you mind asking him if there was a maximum?

THE WITNESS: Yes, there was a maximum.

By MR. DICKINSON:

Q. What was the maximum?

A. Either 20,000 to 25,000, or 25,000 to 30,000; I am not quite sure, with some leeway in amount.

Q. That is to say, in either case the lower amount you mentioned would be the minimum, and the larger amount would be the maximum?

A. The maximum, yes.

Q. What contracts have you made during 1913 with any other manufacturer covering plates, bars and shapes, and when did you make them, with whom, and what was the maximum and minimum tonnage to be called for, and within what time were the specifications to be made?

A. We had contracts with the Jones & Laughlin Steel Company, two or three contracts, I think; we had contracts——

Q. Before you get off Jones & Laughlin——

MR. LINDABURY: Wouldn't it be better if in answering your question—hadn't he better just finish his answer?

MR. DICKINSON: He can finish it in his own way. Read the last question and answer.

(The last two questions and answers were read by the stenographer.)

By MR. DICKINSON:

Q. Just answer the question without my having to go into details.

A. We had contracts with the La Belle Iron Works, Portsmouth Steel Company, American Rolling Mill in Middletown, Ohio—I am not definitely sure whether we had a contract with the Cambria Steel Company or not; possibly did and possibly not.

Q. These contracts were made, all of them, in 1913?

A. Yes; I am quite sure.

Q. And all of them cover plates, bars and shapes?

A. No, because some of these people do not make all of those things. The La Belle Iron Works do not make bars and shapes; they make plates. The Portsmouth Steel Company do not make bars; they make plates.

Q. You say La Belle makes plates?

A. Yes, sir.

Q. How about the American Rolling Mill?

A. Only light plates.

Q. Plates?

A. Yes.

Q. How much tonnage in plates was covered by the contracts made in 1913 by the La Belle, the Portsmouth and the American Rolling Mill?

A. I have no figures here. This would be only an estimate or statement from my memory.

Q. If you do remember, why of course I am willing to take the statement; if you do not remember, I do not want a guess. It is up to you to say whether you remember or not.

A. I do not remember.

Q. Well, now, take Jones & Laughlin; the contracts with them covered plates, bars and shapes?

A. Yes.

Q. And you say you had two or three?

A. Yes.

Q. Now, what tonnage in plates, bars and shapes was covered by these contracts, in the aggregate, made with Jones & Laughlin?

A. I think from 5,000 to 7,000 tons.

Q. What are your requirements from January 1st to July 1st in plates, bars and shapes for the year 1913?

A. We require just as much as we can sell to somebody else. It depends altogether on the condition of business.

Q. How much did you sell up to that time?

A. Up to the 1st of July?

Q. Yes.

A. Altogether, do you mean, or steel only?

Q. I mean plates, bars and shapes; steel, of course.

A. Steel products?

Q. Yes; we have been talking only about steel products with those companies, haven't we?

A. With these particular companies?

Q. Yes.

A. We sold bars, plates and shapes,—for six months, the first half of 1913?

Q. Yes.

A. Somewhere from 30,000 to 40,000 tons, I should think, of bars, plates and shapes.

Q. Did you have any overlapping contracts from the year 1912, out of which you supplied part of these sales of 30,000 to 40,000, in the first six months of 1913?

A. Contracts that were not specified on the 1st of 1913, no.

Q. I mean, did you have any contracts which were in existence when the year 1913 began under which you obtained part of the material embraced in these estimated sales of from 30,000 to 40,000 tons during the first six months in 1913?

A. Yes, sir. Our shipments were very largely from contracts made prior to 1913. In the first half of 1913 the ship-

ments were very largely from contracts which had been made prior to 1913.

Q. This Carnegie contract running from the maximum to the minimum as you have explained; how much did you specify to be taken by July 1st; how much by July 1st did you specify to be taken under that contract?

A. We specified up to the minimum, I am sure.

Q. That is as far as you recollect?

A. That is as far as I recollect.

Q. Coming to sheets now, galvanized and black sheets: You say you bought 90 per cent. from the American Sheet & Tin Plate Company up to a certain period. When was the end of that period?

A. I think it was about 1906.

Q. About 1906?

A. I think so.

Q. Then, from 1901 to 1906 you bought within ten per cent. of all your requirements from that one company?

A. In that neighborhood.

Q. Take the year 1913; did you make any purchases from the American Sheet & Tin Plate Company?

A. I think we made one or more small contract purchases with them.

Q. Do you remember the tonnages of those contracts?

A. I think it was somewhere from 500 to 1,000 tons.

Q. Each?

A. Yes, each, we will say.

Q. From whom else did you buy sheets under contract in 1913?

A. The La Belle Iron Works.

Q. How much did you buy from the La Belle?

A. I don't remember.

Q. From whom else did you buy?

A. From the Portsmouth Steel Company.

Q. What tonnage did you buy from them?

A. A few hundred tons; probably 500 to 1,000 tons.

Q. From anyone else?

A. The American Rolling Mill Company.

Q. How much?

A. Approximately 500 to 1,000 tons.

Q. From anybody else?

A. The Cannonsburg Iron & Steel Company.

Q. How much?

A. Six or eight hundred tons.

Q. Anyone else?

A. The Cleveland Steel Company.

Q. How much?

A. Two or three thousand tons.

Q. Who else?

A. I don't think of any more just now.

Q. This contract with the Cleveland Steel Company was a written contract?

A. I don't think so. I think our purchases were not by contract.

Q. In sheets?

A. I think the purchases from the Cleveland Steel Company were on specific tonnages; on specifications handed to them from time to time.

Q. Were these three thousand tons obtained all at one time or various times?

A. Various times.

Q. You say they were specific purchases on specific occasions; just state how you made that deal with the Cleveland Steel Company for the year 1913?

A. If we wanted to buy 100 tons or 200 tons of sheets, we laid the specifications before them and asked them what prices they would make. If satisfactory, we bought from them.

Q. You did not deal with anyone else if the price was satisfactory?

A. No.

Q. You said that you got about 80 per cent., over certain periods, of bars from the Carnegie Steel Company. Was that 80 per cent. of the steel bars that you got?

A. 80 per cent. of the steel bars, yes; about that.

Q. When you were getting this 80 per cent. of your bar purchases, was the 100 per cent. in reference to which this

80 per cent. bore relation exclusive of the iron bars, or did that 100 per cent. include steel and iron both?

A. You mean 80 per cent.—when I say 80 per cent. was bought from Carnegie, I meant 80 per cent. of the steel bars.

Q. And you had no reference there, in one way or the other, to any percentage including iron bars?

A. No.

Q. You were not dealing with iron bars at all?

A. Not dealing with iron bars at all.

Q. In that percentage?

A. No.

Q. Nor in the figures to which that percentage related?

A. No.

Q. The Union Mill rolled only iron products?

A. Iron and steel.

Q. What percentage of steel?

A. A very small proportion.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. I do not understand, taking your direct and cross examination together, distinctly your method of doing business, or the means by which you ascertained the prices of the different steel manufacturers when you went to give an order or make a contract, so I will examine you briefly farther on that point. Tell me how, generally, when you had a considerable purchase or contract to make, you would ascertain the prices that the different steel manufacturers were willing to make. Do you understand my question?

The Witness: Yes.

Mr. Dickinson: I object to this because I brought out no new matter at all, and only examined him upon questions upon which he was examined in chief. I object to this as improper re-examination.

The Witness: It is rather a hard one to answer, because it is our business to buy stuff as cheaply as we can and sell it to somebody else at a profit, and we do that in a great many different ways. Sometimes it is preferable in making a con-

tract to ask the various steel companies to let us have a price on a contract for a stated tonnage to be extended over a stated time; sometimes it is better to buy some tonnage to be specified immediately. Our practice is not always the same.

By Mr. Lindabury:

Q. That will do for an answer so far. Tell me in what percentage of cases of your larger purchases, leaving out small immediate delivery cases, of course, but your general purchases of fair size, what percentage of them, whether they are contracts for immediate delivery or for future delivery, do you make after inviting quotations. Do you get that?

A. Yes.

Q. In about what percentage of cases do you invite quotations from manufacturers generally before making contracts?

A. A very large proportion.

Q. Could you put it in percentages, for we get a little better idea that way?

A. Let us say 75 per cent.

Q. In those cases do you extend your invitation to about the list that you gave on your direct examination?

A. Yes, sir.

Q. Now, of the other 25 per cent. of instances how do you know what one or another would do for you in the matter of prices?

A. We are in constant touch with them almost every day, with some of the sellers of steel, and we are generally very closely in touch with the prices at which they are willing to sell.

Q. Do you touch them or do they touch you every time?

A. They see us very frequently.

Q. And do you get your prices in that way?

A. Yes.

Q. Does this contact come from their agents calling on you?

A. Yes.

Q. And quoting prices?

A. Yes.

Q. So that you keep in that way informed?

A. Yes.

Q. And it is upon information gathered in that way, and I think you said other ways that you did not mention, that you rely in 25 per cent. of the cases; is that right?

A. Yes.

Q. And is that 25 per cent., speaking by and large, the smaller or larger contracts?

A. Those are the smaller contracts and purchases.

Q. The larger would be, then, the 75 per cent., speaking generally, and allowing, of course, for the exceptions that exist to any rule?

A. Yes.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. What was the largest contract you made in 1913 for sheets? Wasn't it the Cleveland Steel Company?

A. We did not make a contract with the Cleveland Steel Company.

Q. Well, you bought from them?

A. We bought from them.

Q. 3,000 tons?

A. About.

Q. And you did not buy as much as that from anybody else, did you?

A. Did I say 3,000 tons, Judge?

Q. That is the way I have taken it down.

A. I thought I said two to three thousand tons.

Q. Well, the record will show what you stated. Will you say what you want to say? Of course what you have said you have said, and if you want to say anything else, if your memory is improved, say what you choose.

A. I think I stated two to three thousand tons.

Q. I have got it down here differently, but what is it now? Do you recall whether it was two or three thousand tons?

A. Two to three thousand.

Q. Is that as near as you can give it?

A. That is as near as I can give it.

Q. Did you buy that much in sheet from anybody else in 1913?

A. I think so.

Q. From whom?

A. The La Belle Iron Works.

Q. How much did you buy from the La Belle?

A. Sheets and plates, Judge?

Q. I am talking to you only about sheets.

A. Only about sheets?

Q. Yes.

A. The two things are so near together; a mill making plates and sheets, frequently they so closely interlock, the division between plates and sheets is so small; we would call the Cleveland Steel Company a light plate mill or a sheet mill, of very limited range, running from probably 3/8 of an inch thick down to No. 12 gauge, a large proportion of that would be classed as sheets.

Q. This contract of purchase you made with the Cleveland Steel Company; did that cover sheets and plates both?

A. We had no contract with them, but we made purchases from them from time to time on specific orders.

Q. How many transactions were there covering that tonnage that you referred to?

A. I presume there were somewhere between 50 and 100 transactions.

Q. With the Cleveland Steel Company?

A. With the Cleveland Steel Company.

Q. You said, didn't you, in each one of those transactions you took the matter up with them and did not take any bids from anybody else?

A. We took the matter up with them, and if their price was favorable, as good as we thought we could do elsewhere, we gave them the order.

Q. And you did give them the order?

A. We did give them the order.

Q. And you did not take any bids from anyone else?

A. We do not always take bids from everybody on a specific order for a carload or two carloads of steel. If the Cleveland Steel Company could make a prompt delivery, or satisfactory delivery, and their price was reasonably within what we thought we should do, we gave them the order.

Q. Without dealing with anyone else?

A. Probably.

Q. And you did that very often?

A. Did it very often.

Q. Take these years from 1901 down to the present time; can you say that you have any remembrance which would justify you for any of those years, or the average of years, saying how much was covered by written contracts and how much by occasional purchases?

A. Just a general statement, that I think those were about the proportions.

Q. Have you any distinct memory for the year 1909 as to them, and could you undertake to say, of your purchases for 1909, how much was by contract and how much was as occasion arose and the demands of your business necessitated?

A. I should think quite a large proportion was covered by contract, and the balance was for—I might say 75 per cent. was covered by contract and the balance by direct negotiations on specific tonnages.

Q. You say you "should think." Now, tell me what contracts for the year 1909, that you can recall, with whom you made them, and what the tonnages were.

A. I cannot recall a contract or a date in the year 1909 specifically, but we were making contracts with these people I have mentioned, with some of them or all of them, in 1909, and a very large proportion of our purchases were covered by such purchase contracts, extending over two or three or four months, as we might be able to secure them.

Q. Do you know the amount that you purchased in the year 1909 in contracts and otherwise, in tonnage?

A. I do not.

Q. Can you name those with whom you made written contracts during that year?

A. I cannot.

Q. Have you got the contracts?

A. We have—I think we have.

Q. For the year 1909?

A. I think we have.

Q. You have no recollection as to the tonnages embraced in those contracts?

A. Not specifically.

Q. Nor as to the percentage in those tonnages, as compared with the entire percentage of what you bought that year?

A. No; I cannot tell you just exactly what the percentage was.

Q. I am not asking you exactly; I am asking you what you know about it.

A. I should still say that approximately 75 per cent. of our purchases were by contract.

Q. But you cannot give the names of the people with whom you contracted, or the amounts covered by the contracts with them, and you cannot give the total tonnage of what you bought under those contracts; is that so?

A. I have not any of those records.

Q. Then that is just a mere rough estimate, isn't it? Not based upon any recollection at all; is that so?

A. Not a rough estimate.

Q. Well, just give us, then, the basis of it, if it is not rough; just show how refined and polished it may be, now, as resting on facts. Just give us the facts, now, upon which you base it.

A. My general recollection of the condition of business and our method of doing business at that time.

Q. And that is as near as you can come to it, is it?

A. That is as near as I can come to it.

Q. Can you come any nearer to it for the year 1910?

A. I should still say about 75 per cent. of our business was covered by contracts.

Q. No, I mean can you come any nearer to giving the basis upon which you predicate that answer for the year 1910 than you did for the year 1909?

A. I do not think so.

Q. How about 1911?

A. About the same.

Q. And how about 1912?

A. The same.

Q. Do you know how many purchases you have made dur ing those years from various people which were conducted similarly to the way you described awhile ago when you made purchases from the Cleveland Steel Company?

A. We do that every day, so it would be impossible to remember.

Q. And have been doing it every day during that time?

A. Practically every day during that time.

Q. Now, in this contract that you made with Carnegie in 1913, what was the base price you paid on bars, shapes and plates?

A. This last contract?

Q. Yes, the one covering 20,000 to 30,000 tons.

A. Let me see. Prices were changing very rapidly about that time. I think the basis of that purchase was $1.30 for bars and $1.35 for plates and shapes f. o. b. Pittsburgh; that is my present recollection.

Q. What was the date of that contract?

A. I could not say.

Q. You said it was in the first part of the year 1913?

A. I think about the first part; sometime in the first quarter of 1913.

Q. Did you make any other contract for similar products about that time, or any other purchase?

A. Yes.

Q. With whom?

A. They were made, or one was made, with the Jones & Laughlin Company about that time.

Q. For what?

A. For bars, plates and shapes.

Q. Which did you make first?

A. I could not say.

Q. About how far apart were they?

A. I could not say. My impression is, however, and I should think that the Jones & Laughlin contract was made last, because I think we contracted to pay them one thirty-five and one forty.

Q. You do not know how far apart they were?

A. I could not say.

Q. What was the tonnage embraced by that contract?

A. This last contract with Jones & Laughlin?

Q. The one with Jones & Laughlin.

A. I think it was for 1,000 tons, and I think I so stated earlier.

Q. As nearly as you recollect it was for 1,000 tons?

A. Yes.

Q. At the time you made that contract with the Carnegie Company what bids did you get from others on the particular purchase on that twenty to thirty thousand tons?

A. I could not say just who was asked for a price at that time. I presume it was at least the three larger makers.

Q. But you do not say you did take it up with them?

A. I could not say.

Q. Nor the price that you got from them?

A. I am talking to these men almost every day. I could not recall the conversations day by day that I might have had with these people.

Q. But I am talking now about what quotations you solicited on that particular contract you made with Carnegie?

A. I could not say.

Q. That was the biggest contract you made in 1913, was it not?

A. Yes.

Q. And you do not know whom you solicited or what quotations you got?

A. I could not say.

By Mr. LINDABURY:

Q. Take the cases of the purchases from the Cleveland Steel Company to which you refer as made in 1913, and as covering, I think you said, from two to three thousand tons. Am I right about that?

A. Yes.

Q. Did I understand you to say that that two or three thousand tons was the sum of a hundred purchases more or less?

A. Probably 100 purchases.

Q. Was any one of them very large in itself?

A. Not very large. It is a small mill.

Q. Do you purchase pretty nearly every day something or other from somebody or other?

A. Yes, sir.

Q. And those are the current purchases that you alluded to as making up the 25 per cent., I suppose?

A. Yes, sir.

Q. And is the Cleveland Steel Company a local concern?

A. Yes.

Q. Near to you?

A. Very near.

Q. And a handy place to get small requirements, I suppose?

A. Yes; a small mill without their own supply of steel, and not in a position to make contracts over long periods.

Q. Is there any other concern from whom you make so many individual purchases? I am not speaking of amounts, but mere numbers.

A. Perhaps we make as many individual purchases of the La Belle Iron Works as we do of the Cleveland Steel Company. I should think perhaps we did.

Q. Are they near to you?

A. They are in Steubenville, Ohio.

Q. And you make a good many small purchases from them?

A. Yes.

Q. And those small purchases are made, I suppose, for your immediate needs?

A. Yes; or some of our customers' immediate needs, which means our immediate needs.

Q. Your customers' immediate needs were your own, were they not?

A. Yes.

Q. Do you handle concrete bars?

A. Yes.

Q. They are included in the bar purchases you alluded to?

A. Yes.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

JULIUS R. WEMLINGER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live?

A. Brooklyn.

Q. What is your business?

A. President of the Wemlinger Steel Piling Company.

Q. Is that a namesake of yours?

A. That is, yes.

Q. When was it organized?

A. August, 1905.

Q. When did you become its president?

A. At the time it was organized.

Q. And you have been president ever since?

A. Oh, yes.

Q. I take it from its name that it manufactures steel piling?

A. Correct.

Q. Where is its place of manufacture?

A. It is manufactured under our patents by the Cambria Steel Company, Johnstown, Pennsylvania.

Q. They simply manufacture it for you?

A. They manufacture it for us.

Q. When did you begin business?

A. We began in 1907.

Q. How long were you in establishing your business?

A. In what business?

Q. Your steel piling business. I presume you manufacture to sell.

A. Since 1907.

Q. You actively began business then?

A. Yes.

Q. Were your sales considerable the first year?

A. Very small the first year.

Q. Can you give your sales in tonnages for each of the years since then?

A. Approximately in 1908, which is the first year that really counts, we sold about 400 tons; in 1909, between 600 and 700 tons; in 1910, about 1,000 tons; in 1911, 1,200 tons; in 1912, 1,800 tons; close under 2,000 tons.

Q. That is what you would call a growing business, then?

A. Exactly, growing.

Q. Are there other makers of steel piling?

A. Yes, there are three; the Carnegie Steel Company, the Lackawanna Steel Company, and Jones & Laughlin.

Q. Making four in all?

A. Making four in all.

Q. That is a comparatively new product, is it not?

A. Yes, the first sheet steel piling used in this country was driven in 1901 in Chicago.

Q. Manufactured by whom?

A. By the Friested Interlocking Channel Bar Company, Chicago.

Q. Are the processes pursued by these four different manufacturers the same, or different?

A. They are considerably different.

Q. Are all of them protected by patents?

A. Yes, every one of them.

Q. Which was the next to enter the field?

A. The next was the United States Piling Company, of Chicago, which entered the field early in 1904.

Q. And the next?

A. The next were ourselves.

Q. And the fourth?

A. Then the Lackawanna began, in 1908, followed by Jones & Laughlin, practically during the same period.

Q. Have the patents employed by any of these concerns changed hands since they started?

A. Not that I know of, except that the Friested and the United States piling are now made by the Carnegie Steel Company; whether they have been acquired outright or merely manufactured on a royalty basis, I can not say.

Q. The latter, I suppose, is the basis upon which the Cambria manufactures for you?

A. Exactly. Well, no, not a royalty basis; they manufacture for us; we make the selling price ourselves.

Q. Who sells the piling made under the patents that were first taken out?

A. That is the Friested and the Behrend patent, which was first made by the United States Piling Company.

Q. How long have the Carnegie Company been making those?

A. Well, the Carnegie has made the Friested piling since 1901, and the Behrend piling since 1904; always made it.

Q. So that the Carnegie in 1901, at the very beginning, got control in some way or other, of that first patent?

A. Yes, indirectly.

Q. How has the business been divided among these different concerns?

A. Prior to 1907 it was practically all Carnegie's; after that it was divided between Carnegie, the Lackawanna, Jones & Laughlin, and ourselves, Carnegie always being very much in the lead until this year.

Q. Who is in the lead this year?

A. The Lackawanna.

Q. Did the Lackawanna spring suddenly into the lead, or has it been gradual?

A. No, not suddenly; it started in 1908 with a pretty large tonnage, and they have increased it materially, but the tonnage this year probably not being more than two and a quarter to two and a half times that of 1908.

Q. Can you tell about the tonnage of the Lackawanna this year?

A. Probably it would be in the neighborhood of 20,000.

Q. Against your 2,000?

A. Against our 2,000.

Q. And as against Carnegie's what?

A. Against Carnegie's 14,000, probably, this year.

Q. And Jones & Laughlin what?

A. A negligible amount; I do not believe their tonnage will amount to more than 1,500 tons this year.

Q. Has there been competition between these four concerns?

A. Yes; decided competition.

Q. In the sale of this piling?

A. Very much.

Q. What do you mean by very much; how has it manifested itself?

A. It has manifested itself by the fact that we always had lots of trouble to get our orders. We knew that just as soon as there was an inquiry for piling our competitors were on the job.

Q. You got on the job too, I suppose, when you could?

A. Yes.

Q. Has not competition extended to prices?

A. Oh, yes; especially in prices. We do not fear any other competition.

Q. Of course you have got the best piling?

A. Yes, sir.

Q. Are the products alike of these concerns?

A. There is considerable difference.

Q. What is the common basis which permits of competition, resisting strength?

A. Not necessarily; it is very difficult to compare them; in some cases a certain weight per square foot is specified; in other cases a certain minimum thickness of piling; and in the majority of cases no specification whatever is made, and it is simply a case for each individual concern to satisfy the contractor that his is the best product for his particular job.

Q. And I suppose he does that in various ways?

A. Oh, yes; sometimes he may decide that he needs a certain thickness; in other cases he decides that he must have strength, and in other ways.

Q. And do the manufacturers vary the thickness or strength to meet specifications when required?

A. No; they cannot vary except by changing the thickness of their material. They provide three or four different thicknesses, and it is simply a case of their selecting the one which will meet the case most nearly.

Q. What was your business before you became president of this company?

A. I was technical assistant to the sales manager of the Gautier department of the Cambria Steel Company.

Q. During what years was that?

A. That was during 1905 and 1906.

Q. What is that department, and why is it given that name, if you know?

A. The name was an inheritance from an old concern that was originally founded in Johnstown by Mr. Gautier to make agricultural shapes; that concern was purchased subsequently by the Cambria Steel Company; but for a long time carried under that name, the Gautier Department, because the name Gautier has been associated for many years with that particular class of products. After the Cambria took hold of that concern a number of specialties were manufactured in the plant, which has been considerably enlarged since they took it over.

Q. What was sold through this department?

A. We sold bars, specialties, such as file steel, nickel steel, some alloy steels, and all agricultural shapes, especially such shapes as would be required not necessarily in building a machine complete, but plows, for instance, tines, rakes, and such things as those, and we also had charge of selling the cold rolled products, such as shafting and bars, special shapes.

Q. In what territory?

A. In New York and practically all of the east.

Q. Were the sales through that department considerable in volume?

A. Very large.

Q. Could you approximate it in tonnage?

A. I think that the last year I was there the total amount was over a million and a half; the tonnage I could not recollect.

MR. DICKINSON: Total amount of what?

THE WITNESS: The total sales were a million and a half dollars.

MR. DICKINSON: You did not say dollars.

THE WITNESS: I said the tonnage I did not recollect.

By MR. LINDABURY:

Q. Did you have a part in making these sales?

A. Oh, yes.

Q. Were you active?

A. Decidedly.

Q. Did it fall to you to wait upon the customers?

A. Very often, especially where technical questions were involved.

Q. Are you a mechanical engineer?

A. Civil engineer.

Q. Were bars an important article?

A. Oh, yes.

Q. In your repertoire?

A. Yes, very much.

Q. You sold a good many, did you?

A. Yes, sir.

Q. Throughout the territory?

A. Throughout the territory; in fact it was one of the best territories of the country because of the large numbers of shops throughout New England that were using bars.

Q. Was there competition between yourselves and the other manufacturers of bars in the territory you canvassed in the two years you have named?

A. Yes, sir.

Q. Was it sharp?

A. Very sharp.

Q. Or otherwise?

A. Very sharp.

Q. During the whole time?

A. During the whole time that I had anything to do with it.

Q. How was it manifested?

A. There being a considerable difference in price.

Q. And was there ardent solicitation?

A. Yes, sir; very much.

Q. Were you able to hold the same customers all the time, or did others get your customers away?

A. Occasionally.

Q. Did you sometimes get the customers of the others?

A. Oh, yes.

Q. Did you have any hesitancy in going for a competitor's customers?

A. Oh, not a bit.

Q. Did they manifest any hesitancy about getting yours away?

A. Even less.

Q. And were you invited to make bids sometimes by your customers?

A. Oh, yes.

Q. Or quotations?

A. Always. I do not recollect any single order but we had to meet competition.

Q. You did not always find your quotations accepted, I suppose?

A. Indeed not.

Q. And were you met with an offer to negotiate sometimes?

A. Occasionally, yes.

Q. And information as to other quotations?

A. Yes, especially from good customers who were friendly; that is, our customers who were friendly to us almost invariably gave us a chance to meet lower figures if they did have lower figures.

Q. When you lost a contract, as I suppose you did sometimes, did you find out why you lost it?

A. Oh, I should say that is part of our business, to find out.

Q. What did you find as to the prices quoted by your competitors in those cases?

A. I always found them different.

Q. A difference?

A. Yes, sir.

Q. The other leading manufacturers quoted lower prices on the same articles than you?

A. Very often.

Q. Name any of them who did it?

A. Carnegie, Jones & Laughlin, Lackawanna, a number of smaller concerns whose names I do not recollect just now.

Q. Did they get the business away from you?

A. Very often. That is the only way they got it.

Q. They could not get it on the merits?

A. Oh, no; because we had the reputation of turning out some very good stuff.

Q. Were those occasions, when these concerns quoted lower prices and got the business, frequent or infrequent?

A. Very frequent.

Q. Did it extend beyond bars?

A. Oh, yes; it included all products that we were making.

CROSS EXAMINATION

By Mr. Dickinson:

Q. This period you have been talking about, as I understand, when you acted as salesman, was from 1905 to 1906?

A. Yes.

Q. When did you begin in 1905, and when did you end in 1906, the work you have mentioned?

A. I began early in 1905, and ended in July, 1906.

Q. So that it was about a year and a half?

A. About a year and a half; yes, sir.

Q. You said you made sales yourself?

A. I did.

Q. Were you regularly employed as salesman?

A. Yes; I said I made sales where technical knowledge was required, and——

Q. Then that was in the line of something——

A. That is, for instance——

Q. Wait a minute. Do you want to answer something more to the question I had asked you previously?

A. The question you are going to ask me now.

Q. How do you know what I am going to ask you now? If you will just wait until I finish my question I think you will be able to answer it better.

A. I think I was going to add something to the answer to your previous question.

Q. Very well. You are at liberty to do that.

(By request, the stenographer repeated a preceding question as follows:)

"Q. Were you regularly employed as salesman?

"A. Yes; I said I made sales where technical knowledge was required, and——"

THE WITNESS: (Continuing) For instance, if a manufacturer wanted to know what specifications would answer his purpose best, then I usually was detailed to attend to his case.

By MR. DICKINSON:

Q. That is, it was something where he required something to supplement his knowledge on the subject?

A. Exactly.

Q. And you were sent as a technical man to aid him along those lines?

A. Yes.

Q. Up to that point, then, the sales had been negotiated by somebody else, had they not?

A. Indeed not. The sale was not made——

Q. I understand——

A. Until I told him what sort of material he ought to get, and at the same time I would tell him how much it would cost him.

Q. The inquiry, then, would first come from him to your people?

A. Not necessarily. Occasionally, if I traveled, I would see all the people in that territory with a view to getting business from them, and possibly raise technical questions in dealing with them.

Q. What kind of steel products did these technical questions in respect of which your special kind of knowledge was called in, refer to?

A. No special products, because those questions would come up on almost any product. For instance, people making screws would use a soft steel, which required free cutting qualities, and that may be obtained from ordinary bars; and

again, if the percentage of a certain ingredient is too high, they may be altogether objectionable. Still, they would be sold on the market as ordinary bars. Sometimes a slight variation in the specifications would give them exactly the steel that they wanted.

Q. And you would tell them what those variations would be?

A. I would attempt to do so; yes, sir.

Q. Then you would price them on the specifications, with that variation?

A. Exactly, yes.

Q. When you would go to them in that way and tell them what variation was necessary to make the particular thing that they wanted, did you make them prices on that?

A. Yes.

Q. Do you know what prices other people made them on that?

A. Not on that particular composition, perhaps.

Q. Well, on that class of proposition you did not, did you?

A. I did not.

Q. And that usually resulted in a negotiation, if it did result in a sale, as to the particular character that you had suggested to them as being adapted for their needs?

A. In those cases which were treated specifically as such; because, mind you, I sold standard products as well as those special products.

Q. The ordinary salesman does not have to have that broad and accurate technical knowledge that enables you to go around and tell people what they want?

A. Not usually.

Q. They sell standard products, and the ordinary manufacturer who needs steel for his purposes knows about what he wants along those lines, does he not?

A. He is supposed to, yes.

Q. Did you travel all the time as sales agent during that period?

A. No, sir; not all the time.

Q. Where was your place of business mostly?

A. In New York.

Q. Were you in an office here in New York?

A. Yes; in New York.

Q. Did you make sales here in New York?

A. I do not think I made a single sale in New York City.

Q. Then the sales you made were when you left your head quarters in New York and were traveling?

A. Yes.

Q. Did you do that at stated times or at occasional periods——

A. Occasionally——

Q. Wait a minute, if you please, until I finish my question. Did you do that at stated times, or occasionally when exigencies arose that demanded the special line of knowledge that you possessed?

A. I suppose it was at occasional times when the exigencies arose, although I simply went when my superior told me to go. Just the reasons why, I don't know.

Q. And outside of that time you had nothing to do with the question of sales?

A. Oh, yes, I was familiar with the correspondence all the time.

Q. But you made no sales?

A. By correspondence occasionally, by quoting prices, the same as any one else in the office would have to do.

Q. Were you acting, then, as sales agent, or just acting under some one who was there?

A. As assistant to the sales agent.

Q. Then there was a sales agent there who was your superior?

A. Yes.

Q. Did you have anything to do with fixing prices?

A. Not a thing.

Q. They were always fixed by your superior?

A. Always.

Q. You don't know the basis upon which they were fixed?

A. I do not.

Q. That was a matter lying entirely within the judgment and discretion of the sales agent?

A. Exactly.

Q. And you simply quoted the prices that your superiors authorized you to quote?

A. Yes, I did; in all cases.

Q. Take the question of ordinary standard bars, such as ordinarily are quoted in the trade; to what extent did you go out and make sales of them?

A. Only occasionally as I was traveling. If any business in ordinary bars would come up while I was going around, I would go after that business the same as I would after any.

Q. Do you know anything about the volume of business, during that year and a half, that you transacted in bars?

A. No, sir; I could not say.

Q. Really, as salesman, your special work was in line with this question of technical knowledge, which was applied as particular occasions arose, when you were sent out, was it not?

A. Principally, yes.

Q. What besides bars did you sell?

A. Nickel steel, alloy steels and cold rolled products.

Q. Take the nickel steel and alloy steel: they were special characters of steel, were they not?

A. Very much so.

Q. They were not sold in very large quantities, were they?

A. No.

Q. The cold rolled products: what did you sell of those?

A. They sold a considerable tonnage there.

Q. They sold? I am speaking of what you sold.

A. We sold, altogether.

Q. That is a good deal like people who come back from a fishing trip and say "we caught so many fish." I want to know what you caught.

A. I don't know how much I caught.

Q. I want to know how much you sold.

A. I don't know how much I sold.

Q. Can you give no idea about it?

A. No.

Q. What kind of cold rolled products did you sell?

A. Cold rolled shafting for special screws and cold rolled

shafting for machinery for the various uses for which cold rolled products are used.

Q. Chiefly shafting?

A. Oh, no; not at all. In many cases we did not know what the cold rolled products were used for at all.

Q. In those cases they would not need your special technical knowledge, would they?

A. No; indeed not.

Q. You did not go around telling your competitors what price you had quoted, did you?

A. I don't recollect that I did.

Q. That would not be considered very smart in your line of business, would it?

A. Indeed not.

Q. And they did not go around telling you what prices they had quoted, did they?

A. Sometimes they did.

Q. You were smarter than they were, then, were you?

A. I don't know.

Q. Sometimes they told you? Generally they did not, did they?

A. They did not generally, no.

Q. Outside of what information you may have gotten in that way, whatever you knew about the prices of your competitors was largely drawn from inference or from hearsay, was it not?

A. No; from the customers themselves.

Q. How did you get it out of them, if you did not hear what they said about it?

A. We always tried to find out why we didn't get the business.

Q. And they would tell you something?

A. Yes.

Q. And you think that is not hearsay?

MR. LINDABURY: It is part of the *res gestae*, Judge.

THE WITNESS: I guess it is not hearsay if a man tells me what things he has actually done—and in some cases I actually saw the quotations.

By Mr. Dickinson:

Q. You got a good deal of information, then, by what they told you?

A. Yes.

Q. And sometimes you say you saw the actual quotations?

A. Yes, I did.

Q. Do you mean you saw the letters?

A. Yes, I did.

Q. Did you know who wrote them?

A. I saw the letterheads.

Q. You saw the letterheads?

A. Yes.

Q. You do not know who wrote the letters?

A. No; I did not try to remember that.

Q. And you do not know anything about the genuineness of those figures with respect to that particular transaction?

A. I had to assume that they were genuine, being on the letterheads of the competitors.

Q. And upon that you formed your conclusion that you saw the figures?

A. Yes; I took it for granted that they were right.

Q. And so taking it for granted you answered that you know the prices?

A. Yes.

Q. That is all the information you have about it, is it not?

A. Except that in some cases we actually saw the contracts.

Q. You actually saw the contracts?

A. Yes.

Q. After they were made?

A. Yes.

Q. Do you mean to say that after you had bid and after the others had bid, and it was let to somebody else, you saw the contracts?

A. Very often.

Q. What particular contract, during the year 1905, did you see; who were the parties to it?

A. It happened so often that I don't remember it.

Q. They showed you so many contracts, did they, that you cannot remember one of them.

A. It is a thing that I did not try to remember.

Q. That was a common thing, for them to show you contracts?

A. It was quite common with some of our good friends.

Q. Common with some of your good friends?

A. Yes.

Q. And they showed you a great many of such contracts?

A. They showed me some, yes.

Q. How many contracts did you see in 1905?

A. I could not tell whether it was ten or twenty; I know I saw them often enough to make me think that there were other prices made.

Q. And these contracts were on transactions that had been closed at a previous time?

A. Yes; otherwise they would not have been actual contracts, if they had not been closed.

Q. And they were shown, I suppose, as a basis for some future transaction with you?

A. Well, sometimes, yes.

Q. You saw a contract that was made on a particular transaction where you had bid?

A. Yes.

Q. But you did not see the bids of others who bid against you when there were no contracts, did you?

A. Not in that case.

Q. Can you remember the figures of any of those contracts?

A. No.

Q. You have stated that bars were important in your repertoire?

A. Yes.

Q. What note is produced by the bar, ringing the bar?

A. I couldn't tell you that.

Q. X, isn't it, or don't you know that?

A. No.

Q. You were not speaking of musical bars in your repertoire?

A. I did not get acquainted with the musical end of the business.

Q. There was not much harmony in it?

A. I should say not.

ALVIN J. DONALLY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Tenafly, New Jersey.

Q. What is your occupation?

A. President of the Cook Spring Company.

Q. How long have you been president of the Cook Spring Company?

A. About ten years.

Q. Where is that company's works?

A. 420 East 106th Street, New York City.

Q. During those ten years that you have been president of the Cook Spring Company, who has had charge of the purchasing of steel supplies for your company?

A. I have.

Q. And are you familiar with the various purchases that have been made from time to time of steel supplies?

A. Yes.

Q. What kind of steel do you buy; that is, in what form do you buy steel?

A. We buy bar steel and we buy drawn wire.

Q. About what tonnage of wire do you buy annually?

A. Well, that depends; it varies from year to year; probably from 200 tons to 600 tons a year.

Q. Do you buy on annual contracts usually?

A. The major part of it is bought that way.

Q. Before you let these contracts do you ask for quotations from different manufacturers?

A. Yes.

Q. From what manufacturers have you been asking quotations during the last ten years?

A. I do not know as I can name them all, but I can give you some of them.

Q. Give as many as you remember.

A. The Washburn Wire Company, the Crucible Steel Company, the American Steel & Wire Company, the Morgan Spring Company and the Carpenter Steel Company.

Q. Do you ever get quotations from Roeblings?

A. Yes.

Q. Do you ever get quotations from the Pittsburgh Steel Company?

A. I do not know them.

Q. Did you ever get quotations from the Spencer Wire Company?

A. Yes.

Q. As to the quotations that you receive on spring wire from these various manufacturers, in answer to a particular inquiry, are those quotations uniform or do they vary in price?

A. They vary.

Q. And do you usually let your contracts on a competitive basis?

A. We certainly do; we let it to the lowest.

Q. To the lowest bidder?

A. Where we can get the best price, of course.

Q. How are those quotations usually made by them? That is, are they made by letter or by telegraph or by personal call from the salesmen?

A. Usually by personal calls from the salesmen. When we send out an inquiry for price they usually send a salesman around; sometimes they answer by letter, but usually they send a salesman around and then confirm their quotations.

Q. Is the competition keen or otherwise?

MR. COLTON: Objected to on the ground that the witness is not shown to have knowledge as to the nature of the competition existing between the different companies; objected

to on the further ground that the question calls for a conclusion upon a state of facts not disclosed to the Court.

MR. REED: Answer, please; is there keen competition for your business?

THE WITNESS: We have not had anyone refuse to quote us so far.

By MR. REED:

Q. During the past five or six years what part of your total purchases of drawn wire has been made from the American Steel & Wire Company?

A. A very small percentage.

Q. Why have you bought a small percentage from them and a large percentage from their competitors?

A. Because we have better prices elsewhere.

Q. When you say a small percentage, would you give us some idea about how much?

A. My best recollection is that we have bought 200 tons of this drawn wire from the American Steel & Wire Company for the last four or five years.

Q. And during that time approximately what tonnage of drawn wire have you bought from all manufacturers?

A. As near as I could recollect that would be possibly five per cent. in the last five or six years.

Q. That is, the 200 tons which you mentioned would be approximately five per cent. of your total purchases during that period?

A. During that period of this particular wire that you speak of.

Q. Do you buy other kinds of wire?

A. Yes, sir.

Q. Other kinds of steel wire?

A. Yes, sir; there are other kinds of steel wire.

Q. What kinds, Mr. Donally?

A. Well, there is tempered wire; we have been referring to cold drawn wire. Technically speaking, there are two kinds, the one that is tempered and the one that is not.

Q. Have the conditions been the same in the tempered as in the untempered?

A. Practically the same; yes.

Q. From what companies have you been buying your steel bars?

A. Mostly from the Crucible Steel Company, the Pennsylvania Steel Company.

Q. Any others besides those two?

A. I think that all the other bars we have purchased we have purchased through dealers here in New York.

Q. Have you bought any from the Carnegie Company, as far as you know?

A. No.

Q. What kind of steel bars do you use?

A. We use what is known in the trade as the Pennsylvania analysis of spring steel.

Q. Is that an analysis put out by the Pennsylvania Steel Company?

A. It is an analysis required by the Pennsylvania Steel Company for their springs.

Q. The Pennsylvania Railroad Company, you mean?

A. The Pennsylvania Railroad Company.

Q. That is a high carbon steel?

A. High carbon steel.

Q. Then you have bought all of that outside of the Steel Corporation?

A. I bought it from the people I told you. I do not know who is in the Steel Corporation.

Q. You bought from the Crucible and the Pennsylvania?

A. Yes, sir.

Q. What is the nature of your output, Mr. Donally?

A. A general line of springs.

Q. And in what districts do you sell your springs?

A. Any place that we can get an order.

Q. Naturally; but from what districts do you get orders?

A. All over the United States.

Q. Does the American Steel & Wire Company make similar springs?

A. Yes, sir.

Q. During the past ten years have you been in competition with the American Steel & Wire Company?

A. Yes, sir.

Q. Have you had any agreements with them fixing prices?

A. No, sir.

Q. Has the competition been limited in any way; that is, have you got their customers when you could?

A. Yes, sir.

Q. And they have got yours?

A. They have got ours.

Q. Has your business grown during the past ten years, has your company grown in size or importance?

A. Yes, sir.

Q. Is it bigger now than it was ten years ago?

A. Yes, sir, it is.

MR. REED: Cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Mr. Donally, from the point of view of tonnage, you are inappreciable as compared with the American Steel & Wire Company?

A. I have no knowledge of their tonnage.

Q. But as a matter of fact, from the viewpoint of tonnage, they are so much larger than you are that you are an inappreciable factor in the wire market; is that correct?

MR. REED: He has just said he had no knowledge.

MR. COLTON: I am asking his opinion on that subject.

MR. REED: He does not make wire, either.

THE WITNESS: We are small purchasers.

By MR. COLTON:

Q. Very small purchasers of wire?

A. Well, I should not say so, exactly, in that particular line of wire.

Q. How about your size as a competitor, as compared with the sale of spring wires, as compared with the American Steel & Wire Company?

A. We do not sell any spring wire.

Q. In the sale of wire springs, then, do you know the comparative size between you and the American Steel & Wire Company?

A. No, but we are very small compared with them.

Q. You follow, in getting a line on what price you shall pay for your wire, the prices of rods in the Iron Age, do you not?

A. The Iron Age and other trade papers.

Q. And the prices that you have to pay follow those prices very closely, don't they; the Iron Age prices and other trade paper prices?

A. They do not, because the Iron Age does not quote wire prices; at least, I have never seen them quote wire prices.

Q. But they follow very closely, with an allowance made for conversion?

A. Yes; rod prices and bar prices, and all those things.

Q. Do you know whose market price that wire rod price is that is quoted in the Iron Age?

A. I do not.

Q. All you know is that the prices that you have to pay for your wire follow that very closely, taking into account the conversion cost; is that right?

A. Yes.

MR. REED: Follows what very closely?

MR. COLTON: The price of wire rods.

By MR. COLTON:

Q. That is what I mean; is that what you understood?

A. Yes, sir; that is what I understood.

Q. Now, during the last four years you have purchased about 200 tons from the American Steel & Wire Company?

A. Yes, sir; that is, to the best of my recollection.

Q. When you say the last four years, what do you mean by the last four years?

A. Our contracts are usually made, on this particular wire, for a year, and I mean covering our requirements for the last four years, if I said that.

MR. REED: It was five or six, you said.

MR. COLTON: Well, I thought it was four years; possibly it was five. I will take it five.

By MR. COLTON:

Q. During the last five or six years you purchased 200 tons from the American Steel & Wire Company?

A. I was figuring as near as I can recollect about 1,200 tons total, and 200 from them would be about five per cent.; that would be about it.

Q. 200 out of 1,200?

A. Yes, sir; 200 out of 1,200.

Q. You would figure that as about five per cent.?

A. My percentage is wrong; 20 per cent., that would be.

Q. About 20 per cent.?

A. Yes, sir.

Q. That is what I thought, that you must have figured wrong there.

A. I did; yes, sir.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. How many other companies made this kind of springs that you made besides the American Steel & Wire Company?

A. Well, a good many.

Q. Will you name some of them, please?

A. In New York, or competitors?

Q. Competitors.

A. There is Miller & Van Winkle; D. W. Gibson Spring Company; the Morgan Spring Company; the Carey Spring Company; the Cleveland Spring Company. That is enough, isn't it?

Q. And a great many others?

A. And a great many others.

RECROSS EXAMINATION

By MR. COLTON:

Q. The Washburn Company is located quite near to you, is it not?

A. Yes, sir; 118th Street.

Q. And you bought very largely of that company that was located nearby you?

A. Yes.

SYDNEY B. WIGHT

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Wight?

A. New York City.

Q. What is your occupation?

A. General purchasing agent of the New York Central Lines.

Q. How long have you been purchasing agent of the New York Central Lines?

A. Two years last April.

Q. What railroads are covered by the generic term New York Central Lines?

A. The New York Central proper and its leased and allied lines: The Lake Shore, Michigan Central, Big Four, P. & L. E., T. & O. C., Lake Erie & Western, C. I. & S., and Cincinnati & Northern.

Q. Prior to your assumption of that office, Mr. Wight, what was your position?

A. I was purchasing agent of the New York Central proper.

Q. For how long?

A. From 1907 to 1911; about four years.

Q. And prior to that what was your position?

A. Purchasing agent of the Michigan Central Railroad.

Q. For how long?

A. For four years. Prior to that I was assistant purchasing agent of the Michigan Central for seven years.

Q. Will you tell us what kind of steel supplies your company purchases?

A. Mostly spikes, bolts, plates; very few bars.

Q. What kind of plates?

A. Tank plates, fire box steel and boiler plate.

Q. That is a special kind?

A. That is a special kind; that is, the firebox and boiler steel is a special steel specification. We also buy a very small quantity of bars. We have been using bar iron.

Q. Are the purchases of these supplies that you have mentioned made under your direction?

A. Partly. That is, anything in the line of a contract comes to me for approval.

Q. How about the purchase of rails for your companies? You did not mention rails. I assume you buy some?

A. We do, but that is handled by the president. The president executed all those contracts for rails.

Q. That does not come within your direct jurisdiction?

A. No, sir.

Q. When you were purchasing agent of the New York Central were you familiar with the purchases of that company of steel supplies other than rails?

A. I was; yes, sir.

Q. And when you were purchasing agent and assistant purchasing agent of the Michigan Central were you familiar with their purchases?

A. I was.

Q. At the present time, Mr. Wight, could you give us any idea of the tonnage of steel supplies of the New York Central Lines annually, outside of rails?

A. I have not that data, I am sorry. I expected that question to be asked, but I have not that data along with me.

Q. It runs into the thousands of tons?

A. It runs into the thousands of tons. In the case of the New York Central proper I could tell more nearly.

Q. Just so that we may get some idea of your importance as a customer, tell us about how much the New York Central buys?

A. The New York Central bought during this past year about 15,000 tons of bars, plates and miscellaneous products. That is outside of tie plates and spikes. The purchases of tie plates were over 10,000 tons.

Q. For the New York Central alone?

A. Yes. And the spikes were over 50,000 kegs; and track bolts and other similar materials. Besides that, of course, is all the fabricated or structural steel.

Q. You were not including the tonnage of fabricated or structural steel in that?

A. Not at all.

Q. You did not, as I remember, include fabricated or structural steel in the list of steel supplies that your companies buy?

A. No.

Q. Does the quantity of fabricated structural steel run constant from year to year, or does it fluctuate?

A. It fluctuates, depending entirely on appropriations for improvements. There are certain bridges and certain buildings that are authorized, at times, so that that work varies.

Q. Did you have anything to do with the award of the contracts for the steel work in the various buildings that comprise the new Grand Central Station here in New York?

A. I did on part of it; that is, the contracts were actually made by other parties, but the prices were passed on and approved by me as the bids were submitted.

Q. You supervised the awarding of those contracts, did you?

A. I supervised the awarding of those contracts; yes, sir.

Q. Were you familiar with the quotations that were made to your company at that time?

A. I was.

Q. Was there any competition for that work?

A. Decidedly. There was competition all the way through.

Q. Just tell us the names of some of the competitors.

A. There were McClintic-Marshall Company; the Fort Pitt Bridge Company; the Lackawanna Steel Company; that is, the Lackawanna Bridge Company was not organized at that

time, but the Lackawanna Steel Company; the King Bridge Company—and some others, the names of which I have forgotten.

Q. Did the Pennsylvania Steel Company bid?

A. The Pennsylvania Steel Company.

Q. Did the American Bridge Company bid on it?

A. The American Bridge.

Q. How many different contracts were let for the Grand Central Station work? I mean, of course, for structural steel.

A. At the time of those I passed upon?

Q. Yes.

A. There must have been fully a dozen for the different classes of work, because they were large contracts.

Q. Can you give us any idea of the tonnage of structural steel covered by the contracts which you yourself supervised and had to do with?

A. I remember very distinctly the south half of the Grand Central Terminal, which is the present concourse building, with all the ramps and different levels; that amounted to about 12,000 tons.

Q. And the balance of the Grand Central Terminal work amounted to at least as much more?

A. Oh, yes; much more than that, because the underground work was the very heavy work.

Q. Who were some of the successful bidders for that work?

A. The Lackawanna Steel had the underground work, that heavy sub-structure, and McClintic-Marshall had part of it, and the American Bridge Company.

Q. Did you see the different bids that came in from those companies on those different sections of the work?

A. I did, yes.

Q. Were they uniform, or did they vary?

A. They varied considerably.

Q. Can you give us any illustration which would show the extent of variations?

A. To my recollection, on that south half of the Grand Central Terminal—this is only from memory, as I have not had an opportunity to refresh my memory at all—that was

awarded to the American Bridge Company; they were the lowest bidders by nearly $5 a ton; my recollection is between $5 and $6 a ton.

Q. They were that far below the next lowest bidder?

A. Below the next lowest bidder; the next lowest bidder was McClintic-Marshall at that time.

Q. Did bids on the other parts of the work vary as well?

A. They did.

Q. I mean the structural steel.

A. Structural, yes.

Q. During what years was this Grand Central Station work awarded?

A. I think it was 1910, the spring of 1910; that is my recollection of that contract.

Q. That one contract that you spoke of?

A. That one 12,000 ton contract.

Q. How about the other sections of the work for which you let the structural contracts?

A. That was prior to that; I think that was either in the fall of 1908 or the spring of 1909. That is the time when what is the present Grand Central Terminal Office Building—there are two sections, one occupied by the New York Central and the other is called the Grand Central Terminal Office Building, in which space is rented—when that was built; my recollection is that the contract was either 1908 or 1909 when the contract was let for that; that in connection with the sub-work.

Q. I was trying to get the approximate date when the first of these large structural contracts was let.

A. The first one was let before I was there; that is the main office building, and the sub-work.

Q. That was let prior to 1907, was it?

A. That was prior, yes. Yes, prior to that.

Q. Then the different contracts came along at different periods?

A. Different periods.

Q. Up until what time? When was the last large one?

A. The last large one was in 1910; to my recollection, the spring of 1910.

Q. Does your company or any of its affiliated companies operate car works and locomotive works other than mere repair shops?

A. No, we do not.

Q. You operate your own repair shops?

A. We operate our own repair shops, yes.

Q. Then your purchases of steel supplies for car building purposes are just for those repair shops?

A. Repair shops, yes.

Q. That makes your purchases of car building supplies relatively small, I presume?

A. A very small percentage.

Q. Outside, then, of fabricated structural material and steel rails, what particular steel product do you buy most of?

A. Spikes and tie plates.

Q. What companies make spikes?

A. The Inland Steel Company; the Lackawanna Steel Company; the Illinois Steel Company; Dilworth, Porter; Jones & Laughlin; American Iron & Steel Company; Lebanon, Pennsylvania.

Q. The Carnegie does not make any?

A. Not to my knowledge.

Q. What companies make tie plates?

A. Jones & Laughlin; Lackawanna Steel Company; Elyria Iron & Steel Company, of Elyria, Ohio; Sellers Manufacturing Company, of Chicago; Illinois Steel Company; the Inland Steel Company, and also the Portsmouth Rolling Mill, I believe, down in Ohio.

Q. From what companies do you get bars?

A. Do you mean steel bars?

Q. Yes, steel bars.

A. Mainly the Lackawanna Steel Company.

Q. Do you get bids on bars from other concerns?

A. We do; bars with us are only used in place of bar iron; when bar iron is high we use bar steel.

Q. Mr. Wight, in naming the manufacturers of spikes and

tie plates, did you name any from which you do not buy or from which you do not get quotations, or have you just named those that quote to you?

A. Those are the ones we ask for quotations. We ask them for quotations. There may be others, but they would be outside of the territory that would be available for us.

Q. Is there competition for your business on these contracts?

A. I have thought so.

Q. How has that been evidenced?

A. By variation in prices.

Q. Are the quotations you receive uniform?

A. No; they are not, not on spikes and on that class of material.

Q. Those materials that I am speaking of?

A. Not on spikes or on tie plates and those items that you spoke of.

Q. I am not asking about rails now; just those materials that you have charge of in your purchasing?

A. Yes.

Q. How long has this condition existed?

A. We have had competition for several years.

Q. Do these different companies send salesmen?

A. They do when they need orders.

Q. Is there any difference in the conditions when the mills are filled up?

A. There is a difference, then, as there would be in all lines; when the mills are filled up and deliveries are poor they are not anxious for business.

Q. I suppose that your testimony as to variance in prices and competition relates to the period when the mills were not filled up to embarrassment?

A. Yes; when they are after business there is quite a variation in prices.

Q. I neglected to ask you whether any of the directors of the Steel Corporation are also directors of the New York Central Railroad Company or its affiliated lines. Do you know any that are directors common to both companies?

A. Only by hearsay and by reading the reports.

Q. Do you know whether Mr. George F. Baker is a director of your company?

A. Yes, sir.

Q. Do you know whether Mr. J. P. Morgan in his lifetime was a director of your company?

A. Yes, sir.

Q. Do you know whether Mr. John D. Rockefeller and his son, or either of them, were directors in your company?

A. I think not. I think Mr. William Rockefeller is.

Q. Has either Mr. Baker or Mr. Morgan at any time attempted to influence your action in letting contracts in favor of the Steel Corporation or any of its subsidiary companies?

A. No, sir; never.

Q. Has any officer of your company at any time attempted to influence you in your department in favor of any of the Steel Corporation companies?

A. No, sir; never have.

MR. REED: That is all.

CROSS EXAMINATION

By MR. DICKINSON:

Q. What contact have you had since you have been with this company with Mr. J. P. Morgan?

A. I have had no contact with him.

Q. With Mr. John D. Rockefeller?

A. None whatever.

Q. With Mr. William Rockefeller?

A. I have met Mr. William Rockefeller once.

Q. And with any of these other gentlemen named, what contact have you had?

A. Never met them.

Q. Your business don't bring you into association with them at all?

A. No, sir.

Q. Who is the head of your department?

A. The president.

Q. You are under the president, are you?
A. Yes, sir.
Q. He controls it?
A. Yes, sir.

REDIRECT EXAMINATION

By Mr. Reed:

Q. In your statement that no officer of your company had attempted to influence you in your actions in favor of the Steel Corporation you meant to include the president of your company, whoever he might be?
A. Certainly.
Q. From time to time?
A. Yes, sir; I had no instructions.

(Whereupon an adjournment was taken until Monday, November 24th, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND SEVENTEENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Monday, November 24, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

CHARLES OSTHOFF

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where is your home?

A. St. Louis, Missouri.

Q. What is your business?

A. Iron store and heavy hardware.

Q. What is the name of your store?

A. The St. Louis Iron Store Company.

Q. What class of products do you handle?

A. We handle everything used by blacksmiths and wagon makers.

Q. That would include what?

A. That would include iron and steel, horseshoes, toe calks, bolts—any amount of items—and all kinds of wood stock.

Q. You deal in blacksmith supplies, you said?

A. Yes.

Q. From whom do you purchase horse shoes?

A. We buy from the Cincinnati Horse Shoe and Iron Company, the Champion Horseshoe Company, and the Amer-

ican Horseshoe Company, and some little from the American Steel & Wire Company.

Q. How long has the St. Louis Iron Store been in business?

A. Since 1907.

Q. Previous to that time what was your business?

A. I was secretary of the Beck & Corbett Iron Company.

Q. Were they handling the same class of products?

A. Yes, the same thing exactly.

Q. What percentage of your requirements, the St. Louis Iron Store Company's requirements, in horseshoes have you been in the habit of getting from the American Steel & Wire Company since you went into business in 1907?

A. I think it would be about two per cent. of our requirements.

Q. From whom have you purchased the largest amount?

A. The Cincinnati Horseshoe and Iron Company.

Q. Where are they located; at Cincinnati, Ohio?

A. Cincinnati, Ohio.

Q. Which horseshoe manufacturer has the largest trade in that section of the country?

A. The Burden Iron Company.

Q. That is at Troy, New York?

A. Yes.

Q. They manufacture iron horseshoes?

A. Iron horseshoes only.

Q. What does the Cincinnati Horseshoe & Iron Company make?

A. Both iron and steel.

Q. Previous to the time the St. Louis Iron Store went into the business where did you buy horseshoes?

A. We bought them from the Burden Iron Company, the American Horseshoe & Iron Company, and the Bryden Horseshoe Company; that is all I can remember now.

Q. What is the reason, Mr. Osthoff, that you have purchased so large a proportion of your requirements from the Cincinnati Horseshoe Company?

A. We can get a better price.

Q. Are those horseshoes distributed in the same market as the horseshoes made by the American Steel & Wire Company?

A. Yes.

Q. And the Cincinnati Company has made you a better price than whom?

A. Than anyone else.

Q. What concerns are there in St. Louis that are handling the Burden horseshoes?

A. There is Beck & Corbett, Sligo Iron Company, the Campbell Iron Company, Robin & Lucas, the Simmons Hardware Company, Chapley Hardware Company, the Witte Hardware Company and Geller, Ward and Hasner.

Q. Have you received, since you have been doing business with the St. Louis Iron Store Company, and previous to your time with that company, quotations from time to time from different houses on horseshoes?

A. Yes.

Q. What has been your experience as to whether those quotations were uniform or variant?

A. They varied.

Q. How many horseshoes does your company handle a year?

A. We sell between 14,000 and 15,000 kegs, 100 pounds to the keg.

Q. How many horseshoes would that be?

A. That would be 750,000, something like that, according to the size.

Q. What are the horseshoes that are principally sold in your territory, iron or steel?

A. Iron.

Q. You mentioned among other things that you bought, toe calks; where have you been in the habit of buying your toe calks?

A. We have bought toe calks from P. F. Burke, the American Steel & Wire Company, Franklin Steel Works, Rhode Island Perkins Horseshoe Company and the Cambria Steel Company.

Q. Have you been buying from those different concerns off and on since the St. Louis Iron Store was established?

A. Yes.

Q. And from whom did you buy toe calks before that company was established, when you were with the other concern?

A. The only one outside of those was the American Horseshoe Company.

Q. By the way, where is the American Horseshoe Company located?

A. Phillipsburg, New Jersey.

Q. How have you placed your orders for toe calks; on competitive bidding, or otherwise?

A. I always get the prices; I try to get them all down to the lowest price.

Q. When you receive quotations, if you have received quotations from different makers, were those quotations uniform or varying?

A. They varied.

Q. And then you negotiated for the best price you could get?

A. Yes.

Q. Has that been the case during the entire period of your connection with the business?

A. Yes.

MR. DICKINSON: What time is that?

MR. SEVERANCE: For several years previous to 1907.

THE WITNESS: I was with Beck and Corbett for six years.

MR. SEVERANCE: That would be back to 1901.

By MR. SEVERANCE:

Q. What is the Rhode Island Perkins Horse Shoe Company?

A. Manufacturer of horseshoes and toe calks.

Q. They are located at Providence, Rhode Island?

A. Yes, sir.

Q. And you stated, didn't you, that the Burden Company was the largest manufacturer of horseshoes?

A. Yes, sir.

Q. What company comes next?

A. The Phoenix.

Q. Where are the Phoenix located?

A. They have one plant at Joliet, Illinois, and one in the East somewhere, I do not know just where it is, exactly.

Q. Do you buy any bar steel?

A. We buy some; yes, sir.

Q. Is that a large or small item?

A. A small item.

Q. Where do you buy your bar steel?

A. We buy it, of course, where we can get it best; we buy most of it to-day from the Wisconsin Steel Company and the Cambria Steel Company, and have been for the past year or two.

Q. What other companies have you bought bar steel from?

A. We have bought from the Republic Iron & Steel Company, the Lackawanna, the Inland; four or five years ago we bought several cars from the Carnegie Steel Company; we have not bought anything since.

MR. DICKINSON: How is that? You said several what?

THE WITNESS: Two cars.

By MR. SEVERANCE:

Q. Upon what basis have you placed your orders for bars, where you could get the best price?

A. Wherever we could do the best.

Q. Do you know anything about a new steel company recently established at Alton, Illinois?

A. I know of them starting there; at the present time we have a little contract with them.

Q. What is the name of that company?

A. Laclede Steel Company.

Q. Have you seen their plant?

A. No, sir; I have not.

Q. Mr. Osthoff, coming back to the question of shoes and toe calks, in which I understand you have a large business, is there anything done in carrying on the competition in that line through expert demonstrators?

A. Yes, sir.

Q. Just describe what they are and how they work.

A. The Rhode Island Perkins Horse Shoe Company, the American Steel & Wire Company, and the Franklin Steel Works have demonstrators there; they go out and show the horse shoers their goods, they get orders and place them through the jobbers; the Cambria Steel Company and Burke have no demonstrators.

Q. By demonstrating, what do they do?

A. They show up their goods, and naturally talk their goods.

Q. That is, they demonstrate the superiority, if there is any, what they claim to be the superiority of their goods?

A. Yes, sir.

Q. Are there a good many of those men sent out in that way, carrying on that business?

A. They are the three concerns only which do it in toe calks. In St. Louis there are more horse shoe demonstrators than anywhere else.

Q. Those three concerns send out demonstrators of toe calks?

A. Yes, sir.

Q. What other concerns are there, if any, that send out demonstrators of horse shoes?

A. All the horse shoe manufacturers have demonstrators coming there.

Q. Is that competition in the sale and distribution of horse shoes an active competition?

A. Yes, sir.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

BY MR. DICKINSON:

Q. A large part of your trade demands iron horse shoes, does it?

A. Yes, sir.

Q. And you buy to supply that demand?

A. Yes, sir.

Q. What proportion of your sales last year were iron and what proportion were steel horse shoes?

A. In the city proper it is very seldom we get an order for steel; I would say probably 99 per cent. were iron in the city proper. Out in the country we sell more steel shoes; that is, probably a third steel shoes and two-thirds iron out in the country.

Q. Now, taking the average of the whole, what percentage would it be of iron?

A. The whole thing would not average ten per cent.

Q. Of steel, you mean?

A. Of steel; the balance would be iron.

Q. Ninety per cent. of your business is iron, and ten per cent. steel?

A. Yes, sir.

Q. Does the American Steel & Wire Company make iron shoes?

A. Yes, sir.

Q. Do you buy from them?

A. We buy very little from them. In fact, the only thing we buy from the American Steel & Wire Company in the horse shoe line is such orders as their demonstrators take, and we fill them for them. We do not carry them regularly in stock.

Q. Do you know to what extent they make iron shoes?

A. The way I understand it, it is a very small proportion.

Q. Of their output?

A. Yes.

MR. DICKINSON: That is all.

JOHN G. JENNINGS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. In Cleveland.

Q. What is your age?

A. 57.

Q. What is your business?

A. I am treasurer of the Lamson & Sessions Company, manufacturers of bolts, nuts, rivets and wrenches.

Q. How long has that company been in business?

A. They were established in Cleveland as a partnership in 1869.

Q. When was the corporation organized?

A. I think it was in 1883.

Q. And has the corporation been in business there ever since that time?

A. Yes, sir.

Q. How long have you been connected with the corporation?

A. Since 1883; nearly thirty years.

Q. What is your present office?

A. Treasurer.

Q. How long have you been treasurer?

A. Nearly the whole time, with the exception of about two years.

Q. Who is your president?

A. The president to-day is Mr. F. P. Case.

Q. How long has he been president?

A. About two years, I think; two or three years.

Q. Where is your market?

A. Practically all over the United States.

Q. Is there competition in the products that you manufacture?

A. Yes, sir.

Q. Is it extensive?

A. Very.

Q. Is it sharp?

A. Very sharp.

Q. Is that competition as widespread as your market?

A. Yes, sir.

Q. All over the country?

A. Yes, sir.

Q. I think there are some other nut and rivet and bolt manufacturers in Cleveland, are there not?

A. We have quite a bunch of them, yes.

Q. I would like to know how many there are?

A. Seven or eight I would say.

Q. What do you buy in the way of iron and steel raw material?

A. What are called steel bars and finished wire.

Q. What do you make of the steel bars?

A. Bolts of different kinds.

Q. And different sizes, I suppose?

A. Of different sizes; also rivets; also rods of different kinds, and wrenches.

Q. What do you make your nuts of?

A. Bars.

Q. What do you buy the wire for?

A. Nearly the same thing; for bolts of different kinds.

Q. In smaller sizes?

A. The smaller sizes, made by a different process; also rivets; no rods and no wrenches.

Q. What is the extent of your purchases of bar steel?

A. I should say on the average about 5,000 tons per year.

Q. And of wire?

A. About 3,000.

Q. From whom do you buy your bars?

A. You mean going into the past, or at the present time?

Q. During the last ten years, say.

A. From several different sources; we have bought them from the Republic Iron & Steel Company; Jones & Laughlin; the Cambria Steel Company; the Union Rolling Mill, of Cleveland; the Empire Rolling Mill, of Cleveland; the Upson Nut Company, of Cleveland; the Bourne-Fuller Company, of Cleveland. I think that is about all. We have bought a little, also, of the Youngstown Sheet & Tube Company, of Youngstown.

Q. Did you buy any from Carnegie?

A. And the Carnegie Steel Company, yes.

Q. Did you buy any from the Lake Erie Iron Company?

A. No, sir; not in recent years.

Q. When did you buy from them?

A. I could not tell.

Q. How have your purchases been distributed on the average? In other words, about what percentage, during the ten years, have you bought from Carnegie, of your bars?

A. If you will pardon me for a moment, I might, in further reply to your previous question, add to that list the American Steel Hoop Company. Of course that was merged into the Carnegie Company later. You understand that.

Q. Yes.

A. Now, covering this period, in bars, the question is as to what proportion we bought from the Carnegie Steel Company in bars?

Q. Yes.

MR. DICKINSON: Does that include the American Steel Hoop?

THE WITNESS: Yes; that is the same thing.

By MR. LINDABURY:

Q. You may answer it any way you please.

A. Oh, I should say it is not over 25 per cent.

Q. Does that include purchases from the American Steel Hoop Company before it was merged?

A. Yes.

Q. As well as afterward?

A. Yes.

Q. From which of the concerns named have you made the largest purchases?

A. Probably from the Union Rolling Mill of Cleveland, and the Upson Nut Company of Cleveland.

Q. How large have your purchases from Jones & Laughlin been?

A. I should say from 10 to 15 per cent.

Q. And the Republic?

A. You see, it varies so from year to year that it is very difficult to say. I could have prepared a table; I do not know as I could tell exactly.

Q. And the Cambria?

A. I could not tell that; it is a small proportion.

Q. From the Republic has it been more or less than from Jones & Laughlin?

A. More, considerably.

Q. More or less than from Carnegie?

A. Possibly about the same, I should think.

Q. Now, has this average that you have given of your purchases from the Carnegie been uniform or has it been greater in some years than others?

A. It has varied.

Q. And 25 per cent. is about the average for the period of ten years?

A. Yes.

Q. Have you or not made your purchases on a competitive basis?

A. Yes, we have, always.

Q. How has that competition been carried on?

A. By our getting bids.

Q. Do you do that uniformly?

A. Yes.

Q. From all those concerns?

A. Yes.

Q. Were the bids that came in in response to your requests uniform or variant, as a rule?

A. Variant.

Q. Is that true of the whole period spoken of?

A. Yes.

Q. Did the variation extend only to one or two of the bids, or was it general among all the manufacturers?

A. Usually general; sometimes, of course, there was similarity, in a few cases.

Q. Was the variation wider at some periods than others, depending upon the state of trade?

A. Yes.

Q. Now, as to your wire purchases, where have you made them?

A. The American Steel & Wire Company, Jones & Laughlin Steel Company, Cambria Steel Company, the Youngstown Sheet & Tube Company; I think that is about all for those past few years.

Q. Have you purchased your wire also on a competitive basis?

A. Yes.

Q. In what way?

A. The same way, by getting bids.

Q. When they came in, did you find them variant or uniform?

A. Variant.

Q. Is that true of the whole period of ten years?

A. Yes.

Q. From whom have you made the larger amount of your purchases of wire?

A. The larger amount from the American Steel & Wire Company.

Q. About what percentage on the average for ten years?

A. Oh, running from 50 to 75 per cent.; it varies.

Q. On what basis was the distribution made? That is, how came you to buy sometimes from one and sometimes from another?

A. It was largely, of course, a question of price, but our decision was based on three different reasons, practically, most of the time; one was price, another was quality of material, and the third was promptness of delivery.

Q. Were the bids of the Steel & Wire Company always lowest in the cases where you gave them the orders?

A. Why, practically always.

Q. What about the instances where you bought from others; were they lower?

A. Yes, lower.

Q. Were there very many of those in number?

A. Yes.

Q. Was the variation in the quotations on wire considerable?

A. Yes.

Q. Was that variation confined to some or was it general among those who bid?

A. General.

Q. That is true of the whole period?

A. Yes, the whole period.

Q. Has or not competition in these wire products been active between the different manufacturers during the time alluded to?

A. Yes.

Q. How has that activity been manifested to you?

A. By soliciting our business.

Q. Has that been solicited in any languid way?

A. Not at all.

Q. With what frequency are you waited on, or have you been waited on by the salesmen of the different wire concerns?

A. That varies, but a number of times during the year.

Q. Do they sometimes quote prices to you without your having invited them?

A. Yes.

Q. Is that a frequent practice?

A. Yes.

Q. Do the quotations of that kind also vary, as well as those which come in in response to your specific requests?

A. Yes.

Q. How about the bar trade? Has competition been keen in that?

A. Yes.

Q. Among about how many different concerns in number?

A. All those I have mentioned.

Q. And is that true of the whole period you mentioned?

A. Yes.

Q. And is that manifested in the same way that you say the wire competition has been manifested?

A. Yes.

Q. Do the salesmen of the bar mills quote prices to you also without your specific invitations, that you have spoken of?

A. Yes.

Q. Are those prices uniform, or are they also variant?

A. They vary.

Q. Has that been true of the whole period mentioned?

A. Yes.

Q. Has there been any lack of competition at any time in either bar products or wire, during the period of ten years?

MR. DICKINSON: That is objected to as calling for a conclusion of the witness upon a state of facts that may exist in his own mind, but facts which are not proven and not shown, upon which he predicates his opinion.

THE WITNESS: No, sir.

By MR. LINDABURY:

Q. Do you ever negotiate with the bidders after receiving bids pursuant to invitation as you have stated, on bars and wire?

A. We do.

Q. Is that or not your ordinary practice?

A. Yes, sir.

Q. Are you or not able as the result of such negotiations ordinarily to get a better price than the quoted prices?

A. Very often.

Q. Does that also depend upon the condition of the trade more or less?

A. Yes, sir.

Q. Under what conditions are you able to do best on a dicker?

A. I think as a rule on a falling market, when they are more anxious for business.

Q. Do you take any pains to ascertain when you are in the market as to the condition of a mill or its order book?

A. No, I hardly think so.

Q. At any rate you find that on a falling market the manufacturers are more ready to meet you on prices?

A. Yes, sir.

Q. Than in boom times?

A. Yes, sir.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By Mr. Dickinson:

Q. How old did you say you were?

A. 57 I believe I said.

Q. Do you stick to that now?

A. I do.

Q. How long have you been treasurer of this company?

A. Nearly thirty years.

Q. The Lamson & Sessions Company?

A. Yes, sir.

Q. When you first began with that company what officers did it have; I do not mean who filled the offices, but what were the various offices?

A. When I began it was a partnership. I went in as bookkeeper.

Q. Did it have a treasurer then?

A. No, sir; it did not.

Q. I asked you how long you had been treasurer.

A. I said about thirty years.

Q. Is the corporation thirty years old?

A. Yes, sir; it is nearly thirty years.

Q. The Corporation is nearly thirty years old?

A. Yes, just about thirty; I would not say positively but it was either in 1883 or 1884 it was incorporated.

Q. Since it became a corporation you have been treasurer?

A. Yes, sir.

Q. What other officers did it have, a president?

A. Yes, sir.

Q. A vice president?

A. Yes, sir.

Q. A general manager?

A. No, sir.

Q. Who discharged the duties of general manager?

A. The president, vice president, secretary, treasurer and board of directors.

Q. You mean to say that all of them had to get together to perform the functions of a general manager?

A. We had no general manager. I would like to answer that, though, that in those days our president, Mr. S. W. Sessions, was a very—he was practically general manager.

Q. He was practically general manager?

A. Yes; but there was no office created by that name.

Q. He, then, as president, performed the duties that in other companies are usually performed by the general manager?

A. I think so; yes, sir.

Q. Well, now, how long was he president?

A. Until his death.

Q. When was that?

A. I could not say; ten or twelve years ago.

Q. Who became president then?

A. Mr. Lamson.

Q. Has he been president ever since?

A. Until his death one year ago.

Q. Then from 12 years ago up to one year ago Mr. Lamson was president?

A. Yes, sir.

Q. Did you have any general manager within that twelve years?

A. No, sir.

Q. Did Mr. Lamson perform duties the same as his predecessor had done?

A. He did.

Q. Did you have a secretary?

A. We did.

Q. Who was secretary?

A. Mr. H. C. Holt.

Q. And you were treasurer during that period?

A. Yes, sir.

Q. What were your duties as treasurer?

A. Ordinary duties of any treasurer, and also the head of the purchasing department.

Q. The head of the purchasing department?

A. Yes, sir.

Q. So, then, for the last twelve years you have been head of the purchasing department?

A. Yes, sir.

Q. You had a department, did you, for purchasing?

A. Yes, sir.

Q. And you were the head of it?

A. Yes, sir.

Q. Did you have any assistants?

A. No, sir.

Q. Then who else was the department except yourself, then?

A. I had others to work with me to a certain extent; you understand we are not a very large concern.

Q. No, I do not understand anything about it. I am just asking you. I want to find out. Now, did you act independently as head of the purchasing department; that is to say, did you have uncontrolled discretion as to purchases or did you consult with your superior officers?

A. I conferred.

Q. With your superior officers?

A. Yes, sir.

Q. From time to time, in making purchases?

A. Yes, sir.

Q. Did you make all the purchases?

A. Yes, sir.

Q. During that time?

A. No, not all. The last few years in a good many of the smaller supplies I have turned over those matters a good deal.

Q. How long back would that go?

A. Not over three or four years, perhaps.

Q. Then for three or four years you have turned over a portion of the purchasing to someone else?

A. That would not apply, however, to contracts for steel or wire.

Q. So you have done all the purchasing, have you, for steel and wire, during twelve years?

A. Yes, sir.

Q. Now take the year 1902; what was the tonnage of steel bars that your company purchased in that year?

A. I could not tell you.

Q. Could you approximate it?

A. No, sir; I do not think I could. I do not remember.

Q. Was it made under written contracts or purchases from time to time as your necessities required, or do you know?

A. Our custom has been to make contracts, and I should say that in that year our large supplies of material were all purchased under contract.

Q. Do you remember that they were, or are you just speaking in a general way as to your recollection?

A. Yes, I remember, I think——

Q. You do remember. Now, then, if you remember that you had contracts, just state with whom you had them and what the tonnages were, if you know?

A. I could not state it.

Q. You think the largest part of that year was under contracts running over periods——

A. I think—I have a little memorandum here——

Q. I am asking you now for what you remember. I am not asking you to refer to any memorandum, Mr. Jennings.

A. Well, what I meant was if you wanted to know exactly the names of the companies——

Q. I want to know if you remember.

MR. LINDABURY: Let him finish.

THE WITNESS: In fact I should say that I know that we had a contract with the American Steel Hoop Company that year.

By MR. DICKINSON:

Q. For what, bars?

A. Yes; and with the Republic Iron & Steel Company, and with the Union Rolling Mill of Cleveland.

Q. All for bars in that year?

A. Yes, sir.

Q. Do you know the tonnage that you had with them?

A. No, sir.

Q. What percentage of your bars are iron, on an average for the last twelve years?

A. That would be difficult to answer, because it has changed

very much. We are running now much more to steel than we did ten years ago.

Q. How long have you been running much more to steel?

A. The last five or six years, half of this time, perhaps.

Q. Back of say the last five or six years what proportion of your purchases in bars was iron and what proportion was steel?

A. I think the larger proportion was iron.

Q. What percentage would you give?

A. I could not tell you.

Q. Could you approximate it?

A. No, I could not.

Q. So you do not know enough about the business to give us any idea six years ago what proportion of your purchases were iron bars and what proportion were steel bars?

A. No, sir.

Q. Could you give that for any year preceding five or six years ago?

A. No, sir; I could not, because it varied so from year to year.

Q. Did you buy any iron bars from any of the subsidiaries of the United States Steel Corporation? If so, from whom and at what time?

A. I think not during this period.

Q. During what period; twelve years?

A. Yes.

Q. So that all your bar purchases from the subsidiaries of the United States Steel Corporation in the last ten or twelve years have been of steel bars; is that correct?

A. Yes, sir; I should say so.

Q. Up to five or six years ago, of your purchases in bars, the larger part was iron?

A. Yes; I think so.

Q. What contracts have you for the year 1913 for steel bars—written contracts? Just give the names of the concerns.

A. The present year, you mean, now?

Q. Yes.

A. The Upson Nut Company of Cleveland; the Union Rolling Mill Company of Cleveland; the Carnegie Steel Company, and I think a small contract with the Republic Iron & Steel Company.

Q. What tonnage is covered by all these contracts?

A. For this year?

Q. Yes; in steel bars?

A. I should think five or six thousand tons.

Q. What tonnage is covered by the Carnegie contract?

A. I should say about 1,000.

Q. You are confining your answers to steel, now?

A. Yes.

Q. When you said "five or six thousand tons" you meant steel?

A. No, I did not. That is incorrect. That would cover all.

Q. But my question was as to steel.

A. Well, it is largely steel; very largely, this year.

Q. Just give the tonnage this year that you contracted for in steel bars.

A. It would not be more than something over 4,000 tons, I guess, in steel.

Q. And a thousand of that, you say, was covered by the contract with the Carnegie Company?

A. I should think about that.

Q. Have you more than one contract with the Carnegie Company?

A. No.

Q. What was the date of that contract?

A. I could not tell you now.

Q. What is the base price under that Carnegie contract?

A. I don't think I could tell you that.

Q. You made it, did you not?

A. Yes.

Q. About what time of the year did you make it?

A. All these contracts have been extended, I think, and I don't think I could give you the date of that now.

Q. You say this contract with the Carnegie Company was extended. From what time?

A. I don't think I could tell you just what time.

Q. How long has it been in existence?

A. I should think since about the first of the year.

Q. Then you did not mean it was extended over from another year?

A. No, sir.

Q. You think it was made about the first of the year?

A. I think so.

Q. Can you give the month?

A. No, sir.

Q. You do not know whether it was made in January, February, March or April?

A. No, sir.

Q. What did you do when you made this contract? With whom did you negotiate it?

A. You mean with what man?

Q. Yes.

A. With the Cleveland office.

Q. How did you proceed? Did you take it up directly with that office, or did their salesman come to you?

A. I think in this case their salesman came to us.

Q. Do you remember the facts about it?

A. No, sir; I do not, because we have made so many contracts it is pretty hard to tell. My impression, however, would be that he came to us in the case of this contract.

Q. Did he come to you and offer you a price?

A. Yes, sir.

Q. And the price was satisfactory to you?

A. It was when we closed the contract.

Q. How long were you negotiating it?

A. Probably some days; sometimes some weeks.

Q. I am not talking about "sometimes," but I am talking about this particular contract. How long were you negotiating it?

A. I could not tell you, sir.

Q. Have you any distinct recollection about this particular contract and what negotiations took place in regard to it, or what was done by you or your company in respect to it?

A. Not very distinct.

Q. You have no recollection as to what bids were made, who made them, and what the prices were, if any were made?

A. I could not tell now just what competitive bids we had on that particular contract.

Q. You do not know who made any competitive bids on that particular contract?

A. We had at least two.

Q. Do you say, Mr. Jennings, that you remember as a matter of fact in regard to this particular contract that you had at least two bids?

MR. LINDABURY: No, two other bids.

By MR. DICKINSON:

Q. What do you say about that?

A. We had at that time—I am very sure we had prices from the Upson Nut Company on the steel bars, and the Carnegie.

Q. At that time?

A. At that time, and if I am not mistaken, from the Cambria Steel Company; I would not be sure about that.

Q. But you do not state that you do remember that you had from the Cambria?

A. No, I would not be perfectly sure.

Q. Do you know positively that you had from the Upson Nut Company?

A. Yes.

Q. On this particular contract?

A. Yes.

Q. How long did they make that bid before you closed this contract?

A. I could not tell now; they are not held open except for a few days, and I think at this time it was possibly a week.

Q. Have you any recollection that you are drawing on for that, or are you just speaking generally?

A. That is my impression.

Q. Is it anything more than an impression? Is it a statement of fact that you say you recall, or not?

A. I would not be perfectly positive about that.

Q. Would you be perfectly positive as to what bid they made?

A. Now? You mean as to the price of the contract?

Q. I mean as to the price that the Upson people, if they did make a bid, bid on this particular contract that you awarded to Carnegie.

A. No, sir; I couldn't tell you now.

Q. Could you give us the contracts that you made in 1912, with whom you made them, for bars and wire, respectively, and the times of the year, and the tonnages that they covered, the prices at which they were let, who bid upon them, and what the variation was in the bids?

A. No, I could not, from memory.

Q. Could you give us any approximately accurate information about that? If you can, tell us what you do know.

A. I could not do it; I could not tell. There were a good many contracts made in 1912; I could not tell you now the bids or the particulars of the prices.

Q. Or the bids?

A. No, sir; I could not.

Q. Or how they varied?

A. No, sir.

Q. Now, going over a period of ten or twelve years, you have had a great many transactions during that time, have you not?

A. Yes.

Q. And your company has made a great many purchases, has it not?

A. Yes.

Q. They would run up into the hundreds, would they not?

A. In bars and wire, no.

Q. Take bars and steel wire together, would it not in ten or twelve years run up into hundreds of transactions?

A. No, sir.

Q. Take the year 1910; do you know how many transactions you had that year?

A. No, sir.

Q. For the purchases of wire and bars both?

A. No, sir; I do not.

Q. Can you approximate it?

A. I cannot.

Q. Could you approximate it for any of those years?

A. No, sir. I should say that on an average it would not be over several contracts in any one year; it would not run up to 100; it would be considerably less than 100 for the term that you speak of.

Q. Can you give for any one year of those years back of the year 1912, the names of the persons with whom you contracted, or from whom you purchased as occasion demanded, and the prices you paid and the bids you took on those several contracts, and the variation in those bids? If so, just give us the information now.

A. No, sir; I would not do it.

Q. Don't you know that for periods throughout that time you would get at times on your first quotations practically the same price from various makers, and that then you would undertake to trade, and that you sometimes got a lower price than was bid to you in the way that I have described, by the competitors?

A. That is a long question.

(The question was repeated by the stenographer, in part, as follows:)

"Q. Don't you know that for periods throughout that time you would get at times on your first quotations practically the same price from various makers"——

THE WITNESS: You say "practically"; yes.

MR. DICKINSON: Just listen to the whole question and then answer it.

(The remainder of the question was repeated by the stenographer as follows:)

"And that then you would undertake to trade, and that you sometimes got a lower price than was bid to you in the way that I have described, by the competitors?"

THE WITNESS: I would say yes.

By MR. DICKINSON:

Q. The question of the volume of your purchases at a particular time would have some effect, would it not, on your

being able to get some of those who quoted to you to sell to you at lower than the quoted price?

A. Yes.

Q. And that would be the result of trading and negotiation, would it not?

A. Yes.

Q. You do not say, do you, that throughout this period of twelve years the prices quoted to you by competitors on particular transactions always differed from each other, do you?

A. No, sir.

Q. They frequently did not?

A. There were times when some of them would quote the same price.

Q. And you do not remember how many of those now?

A. No.

Q. Whether there were two or more?

A. No, sir.

Q. Or whether they were the same at another period later? That is to say, whether the same number, whether two or more were constant, or whether they varied; you do not know how that is, now?

A. I do not know, but I should say that there was no uniformity.

Q. What do you mean by "uniformity"?

A. You said, as I understood, the same would agree through this period, the same two different parties. I would say that would not be so.

Q. I did not say the same two; I said two or more who may have quoted the same price. You do not now distinctly recall just how, from time to time, on the various transactions, there may have been a variation in these various bidders, do you?

A. No, I do not.

Q. You have had no special reason to carry in your mind the details of these transactions, have you?

A. I have not.

Q. After they were closed matters, so far as you were concerned, they were at an end?

A. Yes.

Q. And you had no special reason to refresh your memory about the details of them?

A. No, sir.

Q. And you have given us impressions as you carry them in your mind now to the best of your ability?

A. Yes.

Q. What you said in regard to your recollection as to prices and variations and impressions applies to purchases of bars and wire alike, does it?

A. Yes, sir.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. What do you mean by the statement that you got during periods of time practically the same quotations from the different manufacturers?

A. I meant that in sending for prices from anywhere from two or three or four or five different producers we would sometimes get two or three of them to respond with the same price.

Q. You did not mean that you got practically the same price from all of them?

A. I did not, no, sir.

Q. But sometimes from two or perhaps three?

A. Yes, sir.

Q. And at what periods would it be that there would be that uniformity between the bids of two or three; would that be in flush times or in lean times or some other times?

Mr. Dickinson: I object to that as leading.

The Witness: I could hardly answer that. I hardly remember.

By Mr. Lindabury:

Q. It was Judge Dickinson's question that brought in the matter of periodicity and your assent to that which leads me to desire that you should indicate the periods or the character of the periods if you are able to?

A. I think I could hardly answer that.

Q. Perhaps you did not mean to intimate that that practice was confined to any particular period.

MR. DICKINSON: I object to that as leading the witness.

THE WITNESS: No, I did not.

By MR. LINDABURY:

Q. Were these bids that happened to be alike at certain times confined to any particular bidders, or were they sometimes one group and sometimes another?

A. Yes, sir; they varied.

Q. And were they confined to any locality?

A. No, sir.

Q. Were there also times when all of them were different?

A. I think so.

Q. Do you observe the Iron Age or Iron Trade Review quotations?

A. Yes, sir.

Q. Did the bids generally conform to those, or were they generally variant from those quotations?

A. Why, they approached very nearly, as a rule, those quotations.

Q. And were the prices at which you closed ordinarily the trade paper prices, or were they variant from them?

A. They varied some.

Q. Both bars and wires are rather staple articles, I suppose, are they not?

A. Yes, sir.

Q. Was there variation from time to time, too, in the quotations; I mean to say did the quotations on all of them vary at different times; that is, being all higher at one period and all lower at some other period, according to trade conditions?

A. I do not know as I understand that question.

Q. Well, you have spoken so far of variation as between the different bidders?

A. Yes, sir.

Q. Now, I am asking you whether there was also variation in different periods?

A. Yes, sir.

MR. LINDABURY: That is all.

MR. DICKINSON: That is all.

CHRISTOPHER B. EDWARDS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Mr. Edwards, where do you live?

A. Covington, Kentucky.

Q. What is your age?

A. 47.

Q. What is your business?

A. Manufacturer of sheet metal building material.

Q. How long have you been in that business?

A. Nine years.

Q. What is the name of your concern?

A. Moeschl-Edwards Corrugating Company.

Q. What is your relation to that company?

A. President.

Q. How long have you been president?

A. Since its organization.

Q. Where is your market?

A. Practically the United States.

Q. Was your business new nine years ago; that is, did you begin it then or did you take over an existing business?

A. Took over an existing business.

Q. What was that?

A. The name of the existing business?

Q. The business you took over.

A. It was of the same nature; you mean the name of it?

Q. Yes; was it a corporation?

A. A corporation.

Q. How much, in the way of steel products, do you purchase a year?

A. Since our organization we purchased from five to fifteen, up to sixteen thousand tons a year.

Q. How much is it now?

A. About 15,000 tons.

Q. At the beginning it was 5,000?

A. About 5,000.

Q. And has it grown evenly or with a fair amount of evenness, I mean?

A. Yes, sir.

Q. Have you anything to do with the buying?

A. Yes, sir. I practically do all the buying of the large amounts.

Q. Has that been the case ever since you started your company?

A. Yes, sir.

Q. Had you had previous experience in that business?

A. I was always associated with the executives of other corporations that I was connected with in the purchasing department.

Q. And did the previous concern deal in steel products?

A. The same line of business.

Q. So that you were not new to that line of business when you became president of the present company?

A. No, I was with a company that was the pioneer in this line.

Q. What was its name?

A. Scott & Company.

Q. When was this roofing business started, iron and steel roofing business?

A. In America in about 1867.

Q. Was its origin in some other country?

A. I presume they used sheet metal in other countries, but the company I was associated with was the pioneer in America.

Q. I see. What proportion of your work is iron? I see your business is iron and steel roofing. I believe you said you make iron and steel roofing?

A. The word iron is very misleading in this; some ten years ago all sheet iron was commonly called iron, regardless of its ingredients, and the business being started on those prevalent customs, we carried the name "iron" in our business, although we sell largely of steel.

Q. Do you sell some iron roofing?

A. Yes.

Q. What percentage of your product is steel?

MR. DICKINSON: Will you indicate the periods? It will shorten my examination.

MR. LINDABURY: Certainly, I will.

By MR. LINDABURY:

Q. What percentage of your present product is steel?

A. Ninety-five.

Q. What per cent. of your product nine years ago, when you began, was steel? Approximately, as nearly as you can remember?

A. About the same.

MR. DICKINSON: Practically all steel, then.

By MR. LINDABURY:

Q. And during the intervening period the same percentages have obtained?

A. About the same.

Q. Is the roofing that you make what is known as corrugated roofing?

A. Corrugated is one of the styles. We manufacture sheet metal building material, both interior and exterior.

Q. And a large part of it, then, is not corrugated?

A. Very little of it is corrugated.

Q. In what shape do you buy the steel that you use?

A. We buy sheets, both black and galvanized.

Q. Do you buy any other steel?

A. Some terne plates.

Q. They are a tin roofing plate, are they not?

A. Yes.

Q. Is your consumption of those considerable, or is it chiefly the others?

A. Mostly in sheets. We use about 1,000 or 1,500 tons of ternes.

Q. Do you buy your plates on a competitive basis?

A. Always.

Q. And have you always done so?

A. Yes, sir.

Q. Who are the manufacturers of those plates?

A. There are some eight or ten of them in the country.

Q. Do you arrange for your supply on yearly or other periodic contracts, or do you buy it from time to time?

A. We buy some on long contracts, as long as our judgment will justify us in doing, and some on short contracts, and some from day to day.

Q. I suppose the length of your so-called long-term contracts is sometimes determined by the willingness or unwillingness of the manufacturers to contract for a long time?

A. Yes.

Q. At times when you want to make a long-term contract, I presume they do not, and vice versa; is that so?

A. It is usually that way.

Q. In making these contracts, how do you go about it?

A. Always through negotiations.

Q. How do you initiate those negotiations?

A. We usually communicate with the seller, and, as a rule, he sends a representative to us.

Q. And do you communicate, when you are ready to make the contract, with one seller or with more than one, ordinarily?

A. We usually buy from from one to three; sometimes four.

Q. I am not speaking, now, of buying, but of quotations. Do you get quotations from more than those you buy from?

A. We get quotations from four or five.

Q. You mean every time, or rather as a rule?

A. If we do not get them every time it is because we consider ourselves posted on the demand upon us, and the competition that we usually have to meet, which guides us as to when we think we have a satisfactory figure under which we would contract. Otherwise we would ask them all.

Q. In what percentage of the cases, as nearly as you can approximate it, do you ask them all?

A. We never ask them all.

Q. But you used that phrase.

A. You mean by "all" the four or five?

Q. Yes.

A. Well, we consider ourselves posted, usually, and never ask over four or five.

Q. Very well. In what percentage of the cases do you ask the four or five?

A. About once in five times.

Q. You mean to say that in only 20 per cent. of the cases you get quotations; is that what you mean?

A. In 20 per cent. of the cases I would say that four or five would negotiate for any given contract.

Q. In those cases how do you start the negotiation?

A. We outline what we want and what we expect in delivery.

Q. And then what?

A. That is about all.

Q. Do you ask for quotations; that is what I mean?

A. Oh, yes.

Q. And when those quotations come in, are they ordinarily uniform, or do they vary?

A. The negotiations usually start by telling about conditions and circumstances, leading up to a recognition of the published prices that are in the trade journals; but which prices we always have to sell against, and therefore they could in no wise be a guide for the seller to expect from us.

Q. What do you mean by always having to sell against those prices?

A. Practically all manufacturers in our line sell to us, and they sell to the smaller trade too; they are practically our competitors.

Q. I see. The men you buy from really compete with you in your trade, to some extent?

A. Yes, sir.

Q. I am anxious to know whether or not you find that these different manufacturers, whether they are all those you named, or four or five selected ones, ordinarily offer you the same prices, or offer varying prices.

A. Their prices always vary.

Q. Has that been so during the nine years you have been in business?

A. It has been always that way.

Q. And have you observed the character of the competition between them for your trade?

A. I don't understand what you mean by the character of the competition.

Q. I mean, have they competed with any activity or keenness for your trade?

A. Oh, yes; they were all very keen, those whom we would invite to negotiate.

Q. How did they manifest that keenness?

A. In figures.

Q. And that has been so the whole time, has it?

A. Practically always.

Q. And as to all of them?

A. As to all of them.

Q. Are the four or five that you say you usually invite to name prices always the same, or do they vary? That is, is it always the same four or five, or do you more or less change your groups?

A. Oh, you have to change the groups. You have to find out whether that four or five desire your business, and whether they need it, in order to get proper consideration in figures. It is never the same group.

Q. So that what you mean is that you selected about that number from a general group for the different proposals?

A. Yes.

Q. Have you found any difference in the competition as to price between one group or another as you have changed their personnel?

A. The figures would always vary.

Q. When you got their figures did you negotiate for a better price than the quoted one?

A. Well, from the buyer's standpoint we are never satisfied, no matter how low they go.

Q. Very well; by not being satisfied and by negotiating are you generally able to better the trade as a rule?

A. I do not understand you.

Q. Are you generally able by negotiating to drive a better bargain than by accepting the figures first quoted?

A. We always bargain, and by that I mean it enables us to test the extreme figures which the seller will go to.

Q. And you generally do that?

A. We always have to.

Q. You sometimes find that he will go some distance, I suppose?

A. Well, after it is over we sometimes think there is a big distance between the high and the low.

Q. What do you buy in wire products, from the wire companies?

A. We buy some nails; very little.

Q. What do you buy from the American Steel & Wire Company?

A. Very little.

Q. What kind of products?

A. Nails.

Q. Nails you use, of course, in your business?

A. Yes.

Q. Considerable nails?

A. No; we do not use over 200 to 250 tons of nails a year.

Q. What percentage of your nails have you bought from the American Steel & Wire Company?

A. Practically none.

Q. What percentage of your sheets have you bought from the Steel Corporation subsidiaries?

A. For how long a period?

Q. Well, if it has varied you may state first the last year.

A. Well, I do not think in the period of our present corporation's existence we have bought over 30 per cent. from the Corporation.

Q. That covers nine years?

A. Yes.

Q. Have you bought more from them some years than in others?

A. According to prices; if their prices were more favorable our tonnage from them would be larger that particular year.

Q. It has varied generally?

A. It has varied some years.

Q. Has this business that you have spoken of, the roofing business, developed largely during the last ten years?

A. We think it has.

Q. What part has the Steel Corporation had in the development of that business, if you know?

A. When I first started the sheet metal roof was usually made of black sheet painted to protect it against the weather, and that sort of roof was a source of annoyance to the consumer, because he always had to keep them painted, every year or so, and seldom got a coat of paint on them that would protect them. The galvanized roof was then evolved from that, until we consider that the galvanized roofing is the ideal farmer's roof for the reason that he can apply it easily at an economical cost; he has got fire protection and no repairs, and he can either build his roof at moderate cost or higher if he chooses; and experience has taught him that it will last from ten to thirty years without repairs; that is the galvanized roof I am speaking of.

Q. So I understand. My question was intended to bring out the extent to which the Steel Corporation has made this development.

A. In the early part of my connection with the roofing business there were very few that were making galvanized sheets, the largest of which, however, was the Steel Corporation, whom we have always considered to be the pioneer in the manufacture of galvanized sheets. Its state of perfection, I believe, has been largely due to the Corporation's efforts in evolving it and developing it.

Q. When the Corporation was formed what was the output, if any, of this galvanized roof in comparison with what it is now?

A. It has been the reverse. About when the Corporation was formed, in our line there was about five to ten per cent. of it galvanized, and 90 per cent. of it black. To-day it is the reverse.

Q. How is the price now as compared with what it was?

A. The prices were considered extremely high in the early

part; in fact I think the prices at the present time are about half of what they were when they started.

Q. When who first started?

A. When the galvanized sheet was first started or evolved.

Q. What do you refer to now, as compared with the Corporation?

A. I mean as it is applied to its use for roofing.

Q. You mean since the Corporation was formed? My question was how the price now is as compared with when the Steel Corporation was formed?

A. The price is much cheaper to-day than when the Corporation was formed.

Q. Is it half as much as it was then?

A. No; there is not that wide a variation.

Q. Well, about how much?

A. Well, I would say to-day it is 33 1/3 per cent. cheaper.

Q. How many other concerns have gone into that business since the Corporation was formed, approximately?

A. I should say 70 per cent. of those that are now making it came in since the Steel Corporation was formed.

Q. Has the price of black sheet been brought down also?

A. Yes; there has been some variation, not so much as there was in the galvanized sheet.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. When did they begin the use of this galvanized?

A. For roofing purposes?

Q. Yes.

A. Its general use was about 12 years ago; it was used in very few cases before that in this country; its price was considered too high by those to whom it was offered for sale to use.

Q. It was used largely for farm buildings?

A. At that period, no.

Q. And now?

A. To-day it is.

Q. And that has to compete with shingles, hasn't it, for covering?

A. At this period it is considered more advantageous than shingles are.

Q. I understand, but it competes with shingles?

A. Its price is a little less than shingles at the present time.

Q. And it is a question, of course, of roofing, whether a person will take the shingles or boards, or whether they will take the galvanized?

A. Yes; always.

Q. And the galvanized has grown in use, hasn't it?

A. Yes, sir.

Q. Who was making it before the formation of the Steel Corporation?

A. There were a number; Moorehead and McLean in our section of the country; but we dealt largely with Mr. W. C. Simpson.

Q. Were they making it?

A. They were taking the black sheet and dipping it; they did not make the sheet.

Q. What I wanted to get at is who made the galvanized sheets in this country before 1901, if you know?

A. There were a number; there were at least ten of them who made them in a smaller way.

Q. State who they were.

A. I say ten; there was the Youngstown Sheet & Tube, Andrews Steel Company, the Reeves Manufacturing Company.

Q. Is that the Reeves Manufacturing Company of Canal Dover, Ohio?

A. Yes, sir; all the mills had smaller capacity for making it then.

Q. How is that?

A. Practically all the rolling mills had a smaller capacity for making galvanized sheet.

Q. And were making it before 1901?

A. Yes, sir.

Q. Now, you said before the formation of the Corporation the price was higher than it became afterwards?

A. Yes, sir.

Q. Now, take the year 1900; was the price then higher than it was, say, in 1902 and 1903, or not; do you recall?

A. 1903 was an extraordinary year in the sheet business; that was the year, I believe, of the strike of all the sheet workers, and the price then, with the exception of the Steel Corporation, which published, I recall, at that time the filling of orders on a three-cent base; we were all selling it at four cents during that period.

Q. That was in 1903?

A. I think that is 1903.

Q. Do you know what the price of galvanized sheets in 1904 as compared with 1900 was?

A. 1904 as compared with 1900; they were about the same, 1904 and 1900; they were about the same, I believe.

Q. How about 1902 and 1900?

A. I cannot remember distinctly between those two. I do remember very distinctly the year of the strike in which sheet iron became in great demand, and the Steel Corporation held the price down 33 per cent. lower than all the other sellers were making it, but were taking and filling orders subject to their ability.

Q. Then you do not remember how 1900 and 1902 would contrast, you do not carry in your mind the figures, do you, for those respective years?

A. No, I do not.

Q. How about 1900 and 1904?

A. I think they were about the same, although my memory is so vague on that comparison that I would not like to state definitely.

Q. Could you state from your memory the comparison between 1900 or 1901 and 1905?

A. That would require more or less bringing down the records in your mind that you do not have much use for.

Q. I suppose so, but I am just asking you if you remember.

A. No, I could not answer that intelligently.

Q. And could you as to the contrast between 1900 or 1901 with 1906; could you answer that intelligently?

A. No, I could not. Previous to 1903 I have, as a matter of figures, a very indistinct recollection.

Q. And subsequently for several years after that your memory also is indistinct, isn't it, as to the relative prices?

A. No, my memory is not indistinct as to any one year, but as to a comparison between two years it is.

Q. Take 1900 and 1907; do you carry in your mind sufficient data to contrast the prices for those years?

A. I never have tried to make a comparison; I always try to remember those years by some events which might have occurred. I remember 1903, by reason of the strike; those figures. I think it was 1903, and I remember, of course, the period of 1907. That was another strike on the other end, a financial strike.

Q. They had a panic in the country then, didn't they?

A. Yes, sir.

Q. Those two years are impressed upon you by those facts, are they?

A. Yes, sir.

Q. Well, now, you said that in about 20 per cent. of your purchases you took bids and in the other 80 per cent. you did not. Is that correct?

A. Yes, sir; that would be about correct. What I meant by bids is that we would ask prices and we would always negotiate. They never sent in written bids explaining what they proposed to do, and the sales were the result consummating from negotiations. That has always been the custom in our line.

Q. That is, as to your purchases, none of them were upon bids sent in, but you took up negotiations with several parties and then that resulted in a trade?

A. Yes, sir.

Q. And you did not send out an offer to make such and such a purchase and ask that they send in bids, but when you wanted to make a purchase you took it up with several of them?

A. Yes, sir.

Q. And negotiated with them?

A. Yes, sir.

Q. And there was no such thing as quotations submitted to you by them upon any special proposition, but it was all done by negotiations?

A. All done by negotiations, yes, sir.

Q. When you did not negotiate in that way in regard to this 80 per cent. of your purchases you did that because you were pretty well posted about conditions, and it was not necessary, was it?

A. Yes, sir.

Q. And that was during periods when the prices were pretty constant, wasn't it?

A. No; it would not be that; it would be because of the season of the year and the demand and the condition of the country as it reflected itself to us.

Q. But you understood the conditions so well that you did not feel it was necessary in your business to negotiate with more than one person when you made purchases?

A. Well, if the figures would be sufficiently low so that they would enable us to meet and sell against the competition that was published we would take a chance and contract.

Q. What do you mean by "the competition that was published"?

A. We meant, as I stated before, the figures that were published in the trade journals, that we had to sell against; we considered that in a measure our competitive figures.

Q. Whose figures did you consider those to be?

A. We considered those to be all of those in the trade.

Q. Of all the manufacturers in the trade?

A. Yes.

Q. Selling to you?

A. Yes.

Q. And selling against you?

A. They were figures that were published for the country.

Q. And you accepted that as a basis; as something that you had to make your calculations to meet?

A. Yes.

Q. And that you then traded and got such figures that would enable you, a smaller manufacturer, to stay in the business?

A. Yes, sir.

Q. And you did that by special negotiation, in the way you have described?

A. Yes, sir.

Q. These published prices that you referred to were not the prices of the thing that you bought, but the prices of the things that you were making and putting on the market?

A. They were the prices of the sheets which we bought. The style of goods that we made were made by all of the same people who furnished the raw material, or the sheet.

Q. You bought the sheets. What did you do to them? What did you make out of them?

A. We fabricated them into various styles of roofing, siding and ceiling.

Q. And then you sold them against the very people who were selling you the sheets?

A. Yes, sir.

Q. But you knew, from the prices of sheets in the market, made by these same people, about what you would have to meet in your finished goods as against their finished goods?

A. Yes. Our cost to manufacture being practically the same.

Q. And you took that as a constant basis and guide in your business, for your competition?

A. Yes, sir; the territory being considerable.

Q. Is it not a fact, Mr. Edwards, that these published prices that you referred to, of the larger manufacturers from whom you bought, or with whom you negotiated, in groups of four or five, would continue the same over considerable periods of time?

A. Yes, sir; that is right. They would last for about six weeks.

Q. Then there might be a change?

A. There usually was, in six weeks.

Q. Then they would last again for another period——

A. Then they would last for another period. That is, the

papers would publish those prices; I suppose that they were the most authentic prices that the papers could get hold of.

Q. At any rate, that was the basis that you took and acted on, in conducting your business?

A. We always had to sell against those, as I say, and to show the buyer an inducement, either in quicker deliveries or better price against those figures that were always considered by the trade or understood to be the published official prices.

Q. And that was throughout this entire period, was it, of ten or twelve years?

A. Yes, sir.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. You had to get your sheets at a price that would enable you to sell against that quoted price?

A. To sell our finished product against that.

Q. That is what I mean.

A. Because the cost of our manufacture would not vary from the cost of manufacture of the party whom we bought from, and who was making practically the same line of goods.

Q. It was in view of the fact that you had to sell your goods against the competition you allude to, indicated by the quoted price, that you negotiated in the way you have mentioned?

A. Yes, sir.

Q. And it was in the course of those negotiations that you found constantly this variation of quotations to you that you have referred to?

A. Oh, there was always a variation.

Q. And sometimes, I understood you to say, it was very considerable.

A. We considered it so. Many a time it would vary from three to six dollars, and I have seen it vary as high as eight dollars a ton.

Q. And this variation was not between one or two, but between the whole lot of them?

A. Usually between four or five. There would be one or two that would be at greater variance than the others, accord-

ing to the necessity, or the extent to which they needed our business.

Q. And were the two who were close together at one time ordinarily the two who were the closest together the next time?

A. Not necessarily.

Q. They broke up in that way?

A. They might come back and say they lost money before, and didn't want to do that again; but we always discounted a statement like that.

Q. As "trade talk"?

A. That was traders' talk, we considered.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. Speaking of any particular transaction running over this period of ten or twelve years, do you mean to say that when you got offers to sell from four or five people with whom you dealt that all of these, in every transaction, differed from each other? Or do you mean to say that there were some that differed from some of the others?

A. Some always differed from some of the others, and some always were sufficiently low to permit us to meet the competition of the figures published by adding our costs for manufacture to the raw material cost.

Q. You do not mean to say, do you, that all of them differed, each from the other, every time on each of those transactions?

A. Oh, no; I do not.

Q. And were there not times when several of them, on these several transactions, agreed, although some might have been less than others?

A. You understand that we would ask for prices from those who, we had been led to believe, would need the business. Having once found that out, it was seldom, I should say, out of the group we would ask, that their figures would be the same. I don't think that it would be so one per cent. of the time.

Q. Of the ones that you picked out?

A. We had to keep ourselves posted as to how they were filled up or not, according to the demand on them, in order to buy advantageously for ourselves.

Q. That is all.

A. There is one thing I would like to correct in my statement; where I said 250 tons of wire, I meant that about 250 tons we bought in other than ternes and sheets. Some of it was nails and some was bars and some was bands.

Q. One other question: Is it not a fact that one reason you made your selections in the way you have described was that you found, from repeated inquiries and dealings, that a number of the larger manufacturers held the same price, all of them, over the same period of time; and that for that reason you did not solicit them?

A. Well, it might have been for that impression, and it may have been for lack of general acquaintanceship. We considered our existence, based upon our keen judgment and tact, in developing an acquaintanceship that would be appreciated; and for that reason we would leave some of them out, and merely through formality ask them for a price.

Q. But had not your experience been with some of the larger concerns that their prices had been the same, and that they had continued so that you did not feel that it would be advantageous for you to solicit any prices from them?

A. Sometimes we would consider them filled up, and we would not ask them, or would not urge upon them to bid. In many cases we would get figures from them lower than what we had bought for when we had not invited them to sell.

I remember one instance of one of the second largest makers of sheets, after we had contracted at a price that we considered advantageous, they called us on the phone and said they could make us so and so price, when we considered them to be extremely high and did not invite them.

Q. I do not think, Mr. Edwards, that you have responded to my question. The question is, had not in your experience a number of these larger manufacturers quoted to you from time to time the same price, and for this reason did you not

in your next invitations, where you had picked out your four or five that you did pick out, leave out those manufacturers who had constantly quoted the same price?

A. When we found that to occur, which would occur occasionally, we took that to mean that they were filled up and did not need any business.

Q. Did that occur many times?

A. That occurred many times.

Q. And you assumed that they were filled up?

A. We would know they were, from our experience.

Q. How would you know that?

A. Because, as one mill said to me years ago, there was not a rolling mill in the country that would not, to use his expression, "kow tow" to an order of 1,000 tons.

Q. And he fixed 1,000 tons at about what would bring these people to a very strong inclination to seek your trade?

A. Yes.

Q. And it is upon that you based your opinion that they were filled up at times when your experience was that their quotations to you had been the same?

A. My experience had led me to believe the same thing. I only mentioned his statement there as substantiating our knowledge that when a mill asks us to buy at a figure at which we have to sell we take it for granted that we could not board ourselves, and we do not make the contract.

Q. Do you undertake to say that as to these times when these larger manufacturers made bids to you that were all the same you knew at that time that they were filled up?

A. There must have been some reason to make our business undesirable, and we would naturally assume that they had plenty of business, because we were always on good terms with all of them.

Q. And that is an assumption based on your general ideas, and not on any intimate knowledge of the actual condition of their orders?

A. Yes, we would always confirm that belief by reports from salesmen, in territory that covered and came in competition with those mills, we would take that into consideration,

and if we found those mills selling strongly in a territory in which we were operating, we would naturally make that same deduction and prove our assumption.

Q. What assumption?

A. That they had plenty of business, and did not need to make any concessions to get ours.

Q. Do you recall any particular instance of that sort in connection with any transaction where the bids of several of those manufacturers had been the same, and that where subsequent to that you had not solicited them on account of their bids having been the same?

A. Yes; several instances.

Q. Tell us the years; what years you are speaking of, where you recall that.

A. I recall that in 1908 and 1909.

Q. Now state in the year 1908 what concerns were bidding to you the same price, which concerns afterward on transactions in that year, you did not solicit?

A. The Youngstown Sheet & Tube Company.

Q. That is one; what other concerns upon particular transactions have you in mind bidding the same price that the Youngstown Sheet & Tube Company bid in 1908?

A. Oh, I think several of them did; in fact, three of them.

Q. Who were they?

A. One was the Parkersburg Iron & Steel Company, and I am not certain about the other one between three of them, but I remember the instance because our salesman in a certain field had reported certain business having been consummated by those people.

Q. Do you remember any other transaction of that character?

A. Not except in a general way.

Q. That is the only one you can mention?

A. That is the only one I could detail now.

Q. For any years?

A. Yes, sir.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

CHARLES W. SCOFIELD

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live, Mr. Scofield?

A. Cleveland, Ohio.

Q. What is your business?

A. I am secretary and treasurer of the Lake Erie Iron Company?

Q. When was that company organized?

A. 1872.

Q. When did you become connected with it?

A. When it was organized, June 6, 1872.

Q. What is your present connection with it?

A. Secretary and treasurer.

Q. How long have you held that position?

A. Since it was organized.

Q. What is the business of the Lake Erie Iron Company?

A. Manufacturing iron, nuts and bolts.

Q. What was the first one?

A. Manufacturing bar iron.

Q. Do you manufacture bar iron?

A. Yes, sir.

Q. From what?

A. From scrap.

Q. How much do you buy of steel products per year?

A. We buy considerable now and then; I could not give you an actual tonnage in any one year.

Q. You buy billets, too, do you not?

A. Billets, yes, sir.

Q. And wire rods?

A. We buy wire rods and finished wire also.

Q. About what do your purchases of billets, bars and rods amount to per year?

A. Between 15 and 20 thousand tons.

Q. Is that the sum of the purchase of all of them, billets, bars and rods?

A. I should think so; yes, sir.

Q. How long have you been purchasing that amount?

A. Ten years, eleven years.

Q. Has your trade increased any during that time?

A. Yes, sir.

Q. How much?

A. Doubled, probably.

Q. Have your purchases also doubled?

A. Yes, sir.

Q. You roll your billets, as I understood you to say, into bars at your own rolling mill?

A. Yes, sir.

Q. Do you purchase any of your bar mill products from Carnegie?

A. We have done so.

Q. About what percentage of your purchases has been from Carnegie?

A. Over a period of ten years probably 25 per cent.

Q. How much are you purchasing from Carnegie now, of late years?

A. Nothing.

Q. When did you last purchase from them?

A. When I say nothing, I want to correct that, because we did make a little purchase of billets. Are you talking of bars or billets now?

Q. That is true; billets and bars and rods, so far as you purchased bars; I understood you purchased some bars, did you not?

A. Yes, sir.

Q. Very well. Now, billets, bars and rods, you can group those together for convenience. Of course, it don't take account of the bars that you manufacture from billets, but your purchases of bars, billets and rods, they all come from the same concerns ordinarily, don't they?

A. Yes, sir.

Q. Have you purchased any of them in the last year or two from Carnegie?

A. No, sir, outside of 500 tons of billets.

Q. 500 tons of billets?

A. Yes.

Q. When did you purchase them?

A. June, I think it was, 1912, I think it was, or perhaps May.

Q. Excepting that, when did you make your last purchase?

A. I could not tell you.

Q. I know, but was it two years ago or ten years ago?

A. Not for four or five years.

Q. Where have you bought the bulk of your requirements?

A. Bought them from the Upson Nut Company, the Republic, Jones & Laughlin, and some from Cambria.

Q. Have you gotten quotations from Carnegie from time to time?

A. Their agent was in and left quotations.

Q. How does it come you have not bought from them?

A. On account of price.

Q. Did you get better prices from the others?

A. We did.

Q. Any other reason than that?

A. Delivery and the term of the contract that we could make.

Q. Are you in the habit of asking quotations from different concerns when you want to buy?

A. We are.

Q. From how many?

A. Four or five.

Q. I am speaking now of the billets and bars, if you have gotten them from the same people?

A. About four.

Q. Perhaps we had better separate them. You buy more billets, I take it from your answer, than bars?

A. No, we buy more bars.

Q. You do not roll half the bars you use?

A. Yes, we roll more than half.

Q. Which do you buy the more of?

A. You are talking of one thing and I am talking of another. We make large quantities of iron ourselves, and we make more bars than billets.

Q. When you say you make large quantities of iron, does that exclude steel?

A. Yes, sir.

Q. Do you make steel bars?

A. We roll billets into bars.

Q. You roll steel billets into bars?

A. Yes, sir.

Q. Well, do you make more bars out of the billets you buy than you purchase outside?

A. No, sir.

Q. That is, you purchase more bars than you make yourselves?

A. Yes, sir.

MR. DICKINSON: Is that just steel or iron and steel you are talking of?

MR. LINDABURY: I am speaking of steel alone.

By MR. LINDABURY:

Q. You purchase more steel bars than you roll yourselves?

A. Yes, sir.

Q. About how much more?

A. Twice as much.

Q. Why is it; is your rolling mill insufficient to supply your needs?

A. No.

Q. Why do you purchase so large a proportion of your bars?

A. We buy them when the market is down.

Q. You can buy them cheaper than you can roll them; is that the idea?

A. Yes, sir.

Q. Take bars then: About what tonnage of bars, as near as you can estimate, do you purchase per year?

A. That would vary according to trade and demand.

Q. I know it, but could you give an average over ten years?

A. I could not do it.

Q. Could you give an idea of the maximum and minimum of your purchases?

A. Yes, from 5,000 up to 15 or 20 thousand tons.

Q. That would cover a period of ten years?

A. No, sir; it would not.

Q. How far back?

A. Seven or eight years.

Q. For seven or eight years you purchased anywhere between 5,000 and 20,000?

A. Yes, sir.

Q. Do you get bids from the different manufacturers of bars before making these purchases, or do you buy on some other basis?

A. We get bids, as a rule.

Q. From how many concerns?

A. Four.

Q. What four?

A. Upson, Carnegie, Republic and J. & L.

Q. "J. & L." means Jones & Laughlin?

A. Yes, sir.

Q. About how many times a year, as nearly as you can estimate, do you obtain these bids?

A. About once.

Q. And do you buy on a yearly contract ordinarily?

A. Yes, sir.

Q. For that year's supply?

A. We buy a tonnage, to be taken out in a year.

Q. You would buy a stated amount of tons, to be specified during the year; is that right?

A. Yes, sir.

Q. Do the bids that you get in response to these invitations ordinarily vary, or are they uniform?

A. They vary.

Q. Do they vary from time to time as between themselves at a given time?

A. They vary from time to time; yes, sir, and between themselves.

Q. Is it your practice to give your order to the lowest bidder?

A. Yes, sir.

Q. Which company has had the largest amount of your orders?

A. The Republic Iron & Steel Company.

Q. Which next?

A. J. & L.

Q. And next?

A. Carnegie.

Q. And the Upson Nut Company the least?

A. Yes.

Q. Have you ever found any two of them bidding the same price at the same time?

A. We might have two of them.

Q. Would there be more than that at any time?

A. I don't think so.

Q. And would the same two be found bidding the same price on subsequent occasions, or would there be a different two?

A. I don't quite get the question.

Q. Say that some two of the bidders were alike one year, and another year there would be two bidders alike. Would they be the same two, or another two?

A. No, sir; they would be different.

Q. So there were no two who were uniformly agreeing in their bidding?

A. No, sir.

Q. That is right, is it? That is what you mean to say?

A. Yes, sir; that is right.

Q. You buy wire rods?

A. We buy wire rods and finished wire.

Q. You buy that from other than the rod mills, I suppose?

A. The wire rods come with the bars, generally.

Q. They do?

A. Yes. Finished wire is separate.

Q. Do you use a considerable amount of finished wire?

A. Yes, sir.

Q. Where do you get that? From whom?

A. I think the majority of it we get from Jones & Laughlin.

Q. From whom else do you make purchases?

A. We have bought it from the American Steel & Wire Company.

Q. Anybody else?

A. The Cambria.

Q. Anybody else?

A. No, sir.

Q. The Republic?

A. No, sir. They do not make finished wire.

Q. Has there been competition also between these concerns in the sale of wire?

A. Yes, sir.

Q. Has it been active or not?

A. It has been active.

Q. With varying prices?

A. Yes, sir.

Q. Through the whole period you have talked about?

A. Yes.

Q. That is, I mean, the period of ten years?

A. Well, Jones & Laughlin have not made it for ten years; but for the past seven or eight years.

Q. During the last seven or eight years, then?

A. Yes, sir.

Q. Do you observe the Iron Age quotations?

A. Not to purchase from.

Q. In the first place, do you see what they are?

A. No, sir; I do not.

Q. Why not? You take the Iron Age, do you not?

A. Yes; it is on file in the office.

Q. Why do you not keep account of their quotations?

A. We do not accept them as the market price.

Q. Why?

A. Because we can generally do better.

Q. Do you not ordinarily have to pay the prices quoted by the Iron Age?

A. No, sir.

Q. Do you ever have to pay more?

A. No, sir.

Q. You regularly pay less?

A. Yes, sir.

Q. Do you do a bit of bargaining in your purchases?

A. Naturally.

Q. Always with one, or sometimes with one and sometimes with another?

A. With all those whom we ask bids from.

Q. You dicker with them all?

A. Yes.

Q. Then you take the best price you can get in the dicker?

A. Yes; we do.

Q. Does it pay to dicker with them? Can you improve the price by dickering, generally?

A. Yes, sir.

Q. All of them, or sometimes only one?

A. Sometimes one or two.

Q. So that it is a question which you can dicker down the most; is that it?

A. That is the idea.

Q. And you always get below the Iron Age price appreciably, do you?

A. We always have been able to do so.

Q. And your business has grown, under this, 100 per cent., as I understand you?

A. I think it has doubled in the last ten years.

CROSS EXAMINATION

By Mr. Colton:

Q. You do not see the Iron Age often, do you?

A. No, sir.

Q. You rarely ever see it?

A. No, sir.

Q. You rarely ever see the quotations in it?

A. No, sir.

Q. You do not know the quotations in it, as a rule, do you?

A. No, sir.

Q. From whom did you buy finished wire in 1903?

A. Probably from the American Steel & Wire Company.

Q. From whom did you buy finished wire in 1902?

A. From the same people.

Q. From anybody else?

A. No, sir.

Q. And in 1901?

A. The American Steel & Wire—no; I think that year we bought from the Cambria.

Q. Do you know when the Cambria began to make wire rods?

A. They began to make them before we started to use them.

Q. Yes, but do you know when Cambria began to make them?

A. I do not.

Q. Do you mean to say you recollect that you purchased wire from Cambria in 1901—finished wire?

A. No; I do not say positively that we did.

Q. You do not know whether Cambria was making it in 1901 or not, do you?

A. I do not.

Q. What is the first year that you can state, as a matter of recollection, that you purchased finished wire from Cambria?

A. I could not make any statement at all.

Q. You do not know whether Cambria began to make finished wire before 1910 or not, do you?

A. Before 1910?

Q. Yes.

A. Oh, yes; we bought it. I cannot state the year, however.

Q. Do you know whether they began before 1908?

A. Yes, sir.

Q. What year are you first positive that you purchased finished wire from Cambria?

A. Some time about 1900.

Q. And you cannot name within five years of the period the time you began to purchase from the Cambria?

A. Not offhand, without looking back; no, sir.

Q. When did you first purchase wire from Jones & Laughlin?

A. The first year they started to make it.

Q. You cannot give that, either?

A. No, sir; I could not give that offhand.

Q. There were several years, then, that you purchased from the American Steel & Wire Company, were there not?

A. Yes.

Q. What years were those?

A. I do not know; I am speaking from memory; I should say from 1902 to 1904; perhaps 1905.

Q. What contracts did you make for the year 1913 in steel bars?

A. We didn't make any.

Q. You made no contracts for 1913?

A. No, sir.

Q. Where did you get the steel bars from for 1913?

A. We had billets; we got them from the Republic.

Q. You bought billets for 1913?

A. No; we bought bars from the Republic; we made no contracts in 1913.

Q. You made no contracts in 1913?

A. No, sir.

Q. Did you give a general order to the Republic for your steel bars?

A. No; we had a contract with them.

Q. You had a contract with the Republic in 1913?

A. No, sir; before that.

Q. It was made before that?

A. Yes.

Q. And was in existence in 1913?

A. Yes.

Q. When was that contract made?

A. I think it was made in February, 1912.

Q. What was the tonnage involved in that contract?

A. Between 17,500 and 20,000 tons.

Q. That is February, 1912?

A. Yes.

Q. From February, 1912, up to the present time, you have made no contract for bars? Is that right?

A. No, sir; we did make contracts.

Q. You made other contracts?

A. Yes.

Q. What other contracts have you made between February, 1912, and the present time, for bars?

A. Made one with the Republic in November, 1912.

Q. And the one in February was with the Republic?

A. Yes, sir.

Q. Then, since February, 1912, you have bought your bars exclusively from the Republic?

A. Yes.

Q. What is the next preceding contract that you had for bars?

A. I could not say offhand.

Q. What was the base price on the contract let in February, 1912, for bars?

A. I think I would have to look that up.

Q. You do not remember the base price?

A. No, sir.

Q. Do you remember any of the base prices in any of the bids on the contract that was covered in 1912?

A. No, sir.

Q. Do you recollect the parties from whom you solicited bids for that particular quantity of steel which you ordered in February, 1912?

A. I do.

Q. From what parties did you solicit bids?

A. From Carnegie and Jones & Laughlin.

Q. From Carnegie, Jones & Laughlin and the Republic?

A. Yes.

Q. How did you go about soliciting bids from those companies for that particular tonnage of steel?

A. The agents of the several companies came into the office and gave us a price.

Q. Did you give that quantity of steel that you were going to purchase?

A. Yes.

Q. What did you figure that to be, a year's supply, approximately?

A. Yes.

Q. Well, were the three agents there at the same time?

A. No, sir.

Q. Do you recollect the bids of those different agents?

A. No; not offhand, no, sir.

Q. In November how many did you solicit bids from? You made another contract in November?

A. We took bids from the same parties, as a rule.

Q. With the same three?

A. Yes.

Q. And you cannot tell how long before February that last preceding contract was made?

A. No, sir.

Q. It was made for a large tonnage, was it not?

A. I couldn't tell you that.

Q. With whom was it made?

A. The Republic.

Q. About what date was that contract made?

A. I couldn't tell you.

Q. Wasn't it about a year before?

A. I could not tell you that.

Q. Can you not tell we whether it was six months before or a year before?

A. No, sir.

Q. The next preceding contract was with the Republic also? You remember that, do you not?

A. Yes.

Q. Next to February, 1912?

A. Yes.

Q. Who bid on that contract?

A. You mean the preceding one to February, 1912?

Q. Yes.

A. Carnegie, Jones & Laughlin and the Republic.

Q. How did you take their bids?

A. The same way; the agents coming into the office.

Q. And you gave them the quantity of steel?

A. Yes.

Q. And asked for bids?

A. Yes.

Q. You did not look up the Iron Age prices at that time, did you?

A. No, sir.

Q. And you do not usually look up the Iron Age prices at the time you take bids, do you?

A. No, sir.

Q. Then you do not know the Iron Age prices at the time you take bids?

A. No, and do not care for them.

Q. What were the bids on that contract? What were the base prices on that contract?

A. I couldn't tell you.

Q. Now, coming back to the contract, what companies did you take bids from for the next preceding contract?

A. I cannot remember that.

Q. You do not know when it was made?

A. No, sir.

Q. Do you remember anything about it?

A. No, sir.

Q. Don't you remember what the bids were?

A. No.

Q. The next one prior to that, do you remember anything about that?

A. No, sir.

Q. Do you remember anything about any contracts back of that one which you testified was next preceding to February, 1912?

A. No, sir.

Q. Have you with any of these contracts distributed several of them among several at the same time?

A. It might be.

Q. Have you any recollection on the subject?

A. Not at the present time, I have not.

Q. As far as you can recollect you dealt exclusively with the Republic, as far as steel bars are concerned; is that right?

A. For a number of years.

Q. For how many years have you dealt exclusively with the Republic Steel Company?

A. Five or six years.

Q. As far back as you can remember you have?

A. No, sir.

Q. Name the first year you dealt with any other company in steel bars but the Republic?

A. I could not give you that offhand.

Q. What is the first year before the time that you began to deal exclusively with the Republic Company?

A. I could not tell you.

Q. Then you have no definite recollection as to the period of time at which you were not dealing exclusively with the Republic Steel Company?

MR. LINDABURY: I object to that; the witness has already spoken of dealing with all of them all the time.

MR. COLTON: In steel bars.

MR. LINDABURY: I presume you mean when they made actual purchases from them.

MR. COLTON: Actual purchases.

THE WITNESS: I could not tell you.

By MR. COLTON:

Q. Can you for any year, in steel bars, give the bids and variations between the different companies bidding on steel bars for any purchases that you have made?

A. No, sir.

Q. Take the wire rods; are those known as bar mill products?

A. No; that is what we call finished wire.

Q. Then you do not buy wire rods?

A. Yes, we buy wire rods.

Q. You call it finished wire?

A. We buy wire rods, but that comes in bars.

Q. Then that is classed among the bar mill products, isn't it?

A. Yes, sir.

Q. What contracts did you make for finished wire in 1913?

A. None.

Q. What purchases did you make of finished wire?

A. None.

Q. For 1912?

A. We made one.

Q. You made one contract?

A. Yes, sir.

Q. With whom did you make that?

A. Jones & Laughlin.

Q. For how much wire?

A. 6,000 tons.

Q. What was the base price of that?

A. $1.37½.

Q. What date?

A. I could not give you the date; it was the early part of 1912.

Q. With whom did you take up that particular quantity of finished wire besides Jones & Laughlin?

A. American Steel & Wire Company.

Q. Is the American Steel & Wire Company the only other company that you took it up with?

A. Yes, sir.

Q. Do you remember what bid the American Steel & Wire Company made on that particular wire?

A. It was considerably higher than what the Jones & Laughlin people were.

Q. And next prior to that?

A. I could not give you that—do you mean the contract previous to that?

Q. Yes.

A. I could not give it to you.

Q. Was it a year or so before that?

A. Possibly.

Q. Then you make your contracts at long intervals for large tonnages?

A. Yes, sir.

Q. And between those times you do not study up prices, do you?

A. No, sir.

MR. COLTON: That is all.

CHARLES MOESER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Moeser, where do you live?

A. Cincinnati, Ohio.

Q. What is your age?

A. Forty-nine years.

Q. Occupation?

A. Hardware merchant.

Q. In Cincinnati?

A. Yes, sir.

Q. How long have you been in the hardware business there?

A. Thirty-three years.

Q. What is the name of your concern?

A. The Pickering Hardware Company.

Q. A corporation?

A. Yes, sir; under the laws of Ohio.

Q. What is your relation to it?

A. I am one of the officers; have been for twenty-five years.

Q. What is the title of your office?

A. At the present time vice-president and treasurer.

Q. Who is the general manager?

A. I am.

Q. How long have you been general manager?

A. About nineteen years.

Q. And that general management results from one of the other offices you hold, I take it, or is an attachment to it?

A. That results, I suppose, from a general knowledge of the business owing to long association.

Q. You created the position without the title?

A. Yes, sir.

Q. Well, in your general management do you make the purchases for your concern; do you purchase your supplies?

A. I to-day purchase all the heavy supplies; I have six assistants that buy in the other departments, in various departments.

Q. And I suppose among heavy supplies you class steel products, do you?

A. Yes, sir.

Q. How long have you been doing business that way?

A. I have been buying the heavy products for the past twenty-five years, and have had assistants accumulating one after the other for the past ten years.

Q. What are the heavy goods that you alluded to which you say you buy?

A. Wire nails, barbed wire, plain fence wire, miscellaneous nails, stone wire; a stone is twelve pounds.

Q. Do you deal in factory supplies as well as in hardware?

A. Yes, sir.

Q. That is your business, is it?

A. We have a great many manufacturers that have running accounts with us.

Q. Is your business a wholesale or a retail business?

A. Our business is—well, considered retail.

Q. Is it considerable?

A. About half a million dollars a year.

Q. Is there any other concern in your part of the United States larger than yours?

A. I think we are the largest retail hardware concern in the State of Ohio.

Q. You spoke of buying nails; how many tons of nails do you buy a year, about?

A. I should judge about 600 to 700 tons.

Q. Do you handle poultry netting?

A. Yes, sir.

Q. How much of that?

A. 500 to 600 rolls.

Q. Do you handle other steel products besides those named?

A. Such as the general hardware business is composed of. We have some 30,000 items in stock. I guess the majority of them are made of steel, iron or something.

Q. It would take you some time to give us a catalogue of them, I suppose?

A. I would not like to do it to-day.

Q. I mean large steel articles or raw products, I will say, not manufactured, but in the condition in which they come from the steel manufacturers——

A. I think those I enumerated——

Q. ——as iron?

A. We do not deal in bar iron.

Q. What is that?

A. No bar iron.

Q. Any sheets?

A. No, sir.

Q. Rods?

A. No, sir.

Q. Plates?

A. No, sir.

Q. Where are your purchases of wire products made? During the last ten years where have they been made; that is, from whom?

A. Well, usually the Belfont Iron Works, of Ironton, Ohio; the Pittsburgh Steel Company, of Pittsburgh; Youngstown Sheet & Tube Works, and American Steel & Wire Company.

Q. How long have you been purchasing from the American Steel & Wire Company?

A. We have been purchasing rather heavily from them in the past four years. Previous to that time very little.

Q. Where did you make the bulk of your purchases before that time?

A. From the Belfont Iron Works.

Q. And since that time where have you bought the bulk?

A. From the American Steel & Wire Company.

Q. Do you buy on a competitive basis?

A. Yes, sir.

Q. Do you purchase your nails in quantity? If so, in what quantity?

A. We usually contract for 100 tons at a time. We take it out in 60 days; sometimes that time is extended, at our request.

Q. How is it to be delivered to you?

A. As specified, within 60 days.

Q. But in what quantities?

A. In carload lots.

Q. Do you ever purchase from the jobber, or only from the manufacturer?

A. Only from the manufacturer.

Q. Is there competition in the articles that you buy; that is, the products that we have been speaking of?

A. There is competition, on account of there being various makers.

Q. I mean, between the various makers?

A. Yes.

Q. Has it been keen and active or not?

A. They are all soliciting business.

Q. Do they quote varying prices?

A. Sometimes they are varying and sometimes they are alike?

Q. How much of the time are they varying? I mean, are they generally varying or generally alike?

A. I think they are generally alike.

Q. Whose prices do you think are generally alike?

A. That would vary from time to time.

Q. Do you mean to say sometimes the prices of two are alike, and at other times the prices of another two are alike?

A. Sometimes the prices of two are alike, and sometimes the prices of three may be alike. I have seen instances where all four are alike.

Q. What do you mean by their varying, then? Were they sometimes all different?

A. Yes, sir.

Q. Has there been any uniformity about it at all?

A. Only such as you would find in buying any line of merchandise. At times prices of all manufacturers are alike.

Q. In all lines, you mean?

A. In general lines of merchandising. In buying from various makers I find, at times, in getting prices, that quite often everybody's price is alike.

Q. You buy over a very wide field, I suppose, inasmuch as you handle some thirty thousand articles?

A. From Maine to east of the Mississippi. Very little west of the Mississippi. There is very little manufacturing done west of the Mississippi in our line.

Q. But you must buy from a multitude of different manufacturers?

A. Yes.

Q. I understand it is your practice to buy from manufacturers only?

A. We buy nothing from the jobber except a little pickup once in a while.

Q. Have the state of the competition and the general conditions of the trade in these steel products been different from those which prevail generally in the trade?

A. No, sir.

Q. Has there been as much competition and as much keenness in competition in these steel products as obtains in the market generally for other things?

A. I think so; yes, sir.

Q. Have you observed any difference, speaking generally?

A. Not especially so; no, sir.

Q. Taking one time with another?

A. No, sir.

Q. Did you ever find more than three out of five quoting the same price at one time?

A. I have usually only gotten prices from four people, although I have had quotations occasionally from Jones & Laughlin and the Cambria Steel Company.

Q. Would you find that agreement in prices or quotations to continue for any length of time, or was it only temporary and sporadic?

A. That would vary with conditions. Those goods, in my judgment, were marketed just the same as any other merchandise that we bought. In speaking of that I would say that in selling goods it is not always the policy of the manufacturer to sell goods at a lower price than his competitor. Good merchandising means getting the market price. I have found that in selling our goods we use the same idea and results. I will try to make myself clear: Manufacturers making and selling some line of product, when quoting do not necessarily all have to be different in price. They obtain business upon their ability to deliver, the quality of their goods, the keenness of the salesman that sells the goods, and so on. As I find it in the majority of lines that I buy, the manufacturers' prices are usually quite uniform, for the reason that they are all trying to obtain as large a volume of profit as they possibly can.

Q. Are nails sold on a close margin?

A. Very close.

Q. What is the ordinary or average profit on a keg of nails?

A. It varies from 15 cents to 20 cents a keg.

Q. It is sometimes a good deal less than that, is it not?

A. If you job them; if you sell a man a quantity—50 or 100 kegs—it sometimes goes down to 8 cents per keg.

Q. During the last four years have the quotations of the American Steel & Wire Company been generally lower than those of their competitors or otherwise?

A. I should say about half way; half of the time they would be lower and the other half they would be alike.

Q. Let us see about that: Were there times when their competitors' prices were lower during the last three or four years?

A. Yes, sir; I have gotten lower prices occasionally from them.

Q. And they got your business, then?

A. Yes.

Q. You bought sometimes from one and sometimes from the other?

A. Yes.

Q. And always according to the lowest bidder, did you not?

A. I always bought where I could buy the lowest.

Q. Have you seen anything to indicate a combination on prices between the manufacturers of those steel products that you have been purchasing?

MR. DICKINSON: This is objected to as calling for a conclusion of the witness upon a state of facts or the absence of what he may consider facts, presented to his own mind and not disclosed to the court, and therefore incompetent.

THE WITNESS: I have not.

By MR. LINDABURY:

Q. What has been the variation in price in nails; how much a keg?

A. At what period of time?

Q. Well, speaking generally during the last ten years, if it is different at different times, you might say.

A. One dollar to two dollars per ton; five to ten cents a keg.

Q. Is there active competition in the sale of nails?

A. Yes.

Q. It is one of the things that are sold most closely?

A. It is the closest thing we have in our stock.

MR. LINDABURY: You may cross-examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You were asked the average profit on a keg of nails, and you stated from fifteen to twenty cents. You are referring to your profit?

A. Yes.

Q. You were not referring to the profit of the manufacturer?

A. I have no way of determining what their profit is.

Q. You were asked something about the uniformity of prices from time to time in the line of steel products which have been mentioned here; and also as to whether that applied to other lines in which you deal. You stated, I believe, that you had about 30,000 items?

A. In various items; yes.

Q. A great many of those items are made specially by people where you cannot contrast the prices?

A. In those cases there would be only one price.

Q. For instance, you handle cutlery, do you not?

A. Yes.

Q. Sometimes you handle Rogers' cutlery?

A. Joseph Rogers, Woestenholm and Henckel.

Q. They make different kinds of knives, do they not, different sorts?

A. Yes.

Q. There is no uniformity, of course, in those prices?

A. No, because each bears a separate reputation.

Q. And that would apply to a great many of those 30,000 articles you have?

A. Yes.

Q. For instance, do you handle any plows?

A. No, sir; we do not.

Q. Or harrows, or any farming implements?

A. No, sir.

Q. I suppose you handle yard sprinklers?

A. Yes.

Q. And hose for sprinkling?

A. Garden hose, yes.

Q. And lawn rollers?

A. Yes.

Q. And lawn mowers?

A. Yes.

Q. Those are all specialties, are they not?

A. Well, we have to take up each one of those lines specifically. There is not any manufacturer in the United States making a lawn mower that makes a lawn mower exactly like his competitors.

Q. And therefore——

MR. LINDABURY: Let him finish.

MR. DICKINSON: Are you finished?

THE WITNESS: I have finished on the subject of lawn mowers.

MR. DICKINSON: Do you want to say something more?

MR. LINDABURY: One moment. The question is not half answered.

MR. DICKINSON: I have asked him the question, and the witness knows better whether he is finished than counsel on the other side.

MR. LINDABURY: You were going to cut him off in the middle of his answer.

MR. DICKINSON: I am not trying to.

By MR. DICKINSON:

Q. Get the question in your mind; say all you want to, but let me know when you are through.

A. I have spoken of lawn mowers. There are perhaps as many different styles of lawn rollers as there are makers. Each one has his own special feature; they are not standardized; lawn sprinklers, there are a great many different patterns; very few that are alike, and where they are very near alike, even then an expert can pick some little points of merit in one over the other. I think with that it will cover the answer there.

Q. The point I want to get at is, in those 30,000 items there are a great many things that are special by themselves and are not standardized?

A. Oh, yes.

Q. You do not mean to say that as to all these things there is uniformity of price?

A. Oh, no.

Q. You were asked about a combination; is it not a fact that as to these steel products that you have bought, that were standardized, you have repeatedly throughout this time of ten years received identically the same bids on a proposed purchase from several of the bidders that you have solicited?

A. Yes.

Q. And has not this been done very often?

A. I stated about fifty per cent. of the time.

Q. Has there been any time when the prices would be the same?

A. Yes.

Q. As far, then, as that would go, that fact you have observed?

A. Yes.

Q. Now, have not the prices on those standard steel products to which you have referred remained during the last ten years the same throughout periods of several months at a time during each of those years?

A. Yes.

Q. Has it at any time in your dealings, taking bids and making purchases of these standard steel products to which you have referred, appeared to you as if the manufacturers did not want to cut each others' prices on account of the effect it would have in disrupting the market?

A. I consider, from the fact that they were alike, that it was good merchandising.

Q. And you approve of that?

A. I do.

Q. But the fact is that the prices were the same, as you have described?

A. Yes.

Q. Over various periods and in various years?

A. Yes, sir.

Q. There was a sharp cut in the price of nails made by the American Steel & Wire Company about 1900?

A. I recollect one very sharp cut that was made; I do not recollect the date. They dropped $1 per keg over night.

Q. That was made by Gates, was it?

A. Yes, sir.

Q. Do you know what it dropped to?

A. I cannot give you the exact figures at this time.

Q. That was in 1901, was it?

A. I think it was previous to the formation of the U. S. Steel Corporation. We have not had any such drop since, either. They never got that far.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. Does one lawn mower compete with another, Mr. Moeser, in the market?

A. No, lawn mowers are in a schedule by themselves in this way, that manufacturers advertise those goods very thoroughly throughout the magazines to the general public and each gains a reputation, such as the Pennsylvania, Philadelphia, Coldwell, and they all have their followings through the strength of their advertising and the result is they are not standardized like nails and barbed wire; they are mostly covered by patents.

Q. I know, but when a man buys one lawn mower, I suppose he doesn't want another; if he does he cannot use two at the same time, can he?

Mr. Dickinson: Not unless his yard is very large.

The Witness: No.

By Mr. Lindabury:

Q. I suppose if he buys one man's make of lawn mower he don't buy another unless he has got a big yard or wants to have more?

A. He usually buys one at a time.

Q. In a sense, then, there is competition, no matter if the articles are patented or not standardized?

A. Of course, when buying them we look at the various lines and points of merit and the price of each, and we determine which would be the best seller in our market for the merits displayed and the prices of the goods; we weigh that ourselves.

Q. Do you mean to say there is no competition between the buyers from you or between the buyers from the manufacturers, then? Where is there not any competition in the purchase and sale of lawn mowers? We want to get your idea of competition.

A. Competition would have to be upon the same line, upon the same standard goods, you understand?

Q. No, I do not understand. I understand competition is

between two things that will answer the same purpose, whether they are made under one patent or another.

A. Well, of course, each manufacturer tries to sell you, but one may have some excess upon a merit and that influences the sale.

Q. And another has some excess upon a merit, and it is a balancing of one against the other?

A. Yes; or local reputation.

Q. Isn't that competition?

A. I suppose you might call it so, for one manufacturer gains the order and the other loses it, although they are both on the ground trying to get the business.

Q. When have these four concerns that you have named all quoted to you the same price on wire goods?

A. I could not give any specific dates, but I said perhaps 50 per cent. of the time that the prices might be alike. That did not determine my mind that there was any combination.

Q. I am not asking for your mental operation, but for the facts. You saw me out in Cincinnati a week or two ago, didn't you?

A. Yes.

Q. Didn't you make a statement to me there that the prices of all these have been constantly varying?

Mr. Dickinson: I object to that as improper examination.

Mr. Lindabury: I have a right to ask that of a witness.

By Mr. Lindabury:

Q. Didn't you make a statement to me of that kind?

A. I would not say as to that; fifty per cent. of the time I said they would be alike.

Q. You made me a statement which I wrote in your presence, did I not?

A. I made a statement.

Q. And didn't you in the course of that statement say the prices had been constantly varying and that no two were alike more than once at a time, and never more than two; didn't you make just that statement?

A. I think in some cases there were probably two alike, as I said before.

Q. Didn't you make the statement to me there that in no cases were more than two alike, and that they were not alike more than one time?

A. I do not recall that just now.

Q. Is or not that the fact, that there were never more than two of them alike at one time?

A. I cannot say that.

Q. And if they were alike at one time they were never alike a second time in succession, that no two were alike two times in succession?

A. They varied very often; at times they might be alike, and at times there would be a difference.

Q. I know, but I am asking you if you did not make that statement to me two weeks ago in Cincinnati; that is the present question.

A. I do not recall.

Q. What do you recall as to the fact as to whether or not there were more than two of them alike at the same time at any one time?

A. I think at times they were alike.

Q. More than two?

A. I think so.

Q. And do you think that any two of them were alike more than once in a period; in other words, that any two of them were alike twice in succession?

A. It might have been.

Q. I know they might have been or might not have been; what is your recollection on the subject?

A. I think they were.

Q. You think they were?

A. Yes, sir.

Q. Have you been seen by Mr. Simmons, the Government detective, since I saw you in Cincinnati?

A. I saw some one connected with the prosecuting office, I think, of the Government.

Q. When?

A. I think it was last Thursday.

Q. How long after I saw you?

A. About a week and a half.

Q. Did you have an interview with him?

A. Yes, sir.

Q. On the subject of your proposed testimony?

A. Yes, sir.

Q. And of your talk with me?

A. Yes, sir.

Q. Did he mention the fact that I had seen you or you mention the fact that I had seen you?

A. He said that I was subpœnaed as a witness and I was to appear in New York, and I asked him who he represented, and he said he represented the U. S. Government, I think, and he would like to have a little conversation with me.

Q. What was his name?

A. I do not recollect it.

Q. Was it Simmons?

A. I could not say as to that.

MR. LINDABURY: That is all.

MR. DICKINSON: No, it is not all.

RECROSS EXAMINATION

By MR. DICKINSON:

Q. You say that this representative saw you in Cincinnati?

A. Yes.

Q. State exactly what he said to you?

A. He said, "Mr. Moeser, you have been asked to come to New York to appear as a witness in the case of the Government against the United States Steel Corporation?" I said "Yes." He said, "Could I see you for a few moments, can I make an engagement with you?" I said, "Why, yes, there is no objection to that." And he said, "When can we make the engagement." I looked up and I said, "Well, now, just take a chair here, sit down here for a few moments," and he sat down and he asked me my name, occupation and so on. I do not recall any of the balance of the conversation at this moment.

Q. State all that you can recall?

A. He asked me if I was a buyer of steel products. I cannot recall just now the balance of the conversation.

Q. Did he see you more than one time?

A. Only once.

Q. Did he ask you questions?

A. I recollect he asked me if I knew a certain man by the name of—he spelled it—I told him I never heard of anybody of that name, whatever it was; he said that he was also subpœnaed as a witness, I believe, and he wished to see him——

Q. Did he make any suggestions to you as to what your testimony should be in this case?

A. No, sir.

Q. In any way, shape or form?

A. No, sir.

Q. Did he offer any inducement, or did he undertake to make any threats or do anything to influence your testimony in any way, shape or form?

A. No, sir; all he said was "All we want are the facts in the case."

Q. That was what he told you?

A. Yes, sir.

Q. And you gave him the facts, as you understood them?

A. I answered every question he asked me.

Q. You never saw him before?

A. No, sir.

Q. You never have seen him since?

A. No, sir.

Q. Have you talked with any of the counsel in this case?

A. No, sir.

Q. Mr. Colton or myself?

A. No, sir.

Q. Have you had any communication with them in any way?

A. I never saw you before to-day.

By Mr. Lindabury:

Q. Did you give Mr. Simmons the facts, as you call them, the same as you gave them to me?

A. I answered any question that he propounded to me.

Q. How long did the interview last?

A. I should judge ten minutes.

MR. DICKINSON: I object to the statement that Mr. Simmons is a detective. Mr. Simmons is a lawyer; he is not a detective, and never has been in any way associated in any such capacity.

MR. COLTON: He is a special assistant to the Attorney General.

MR. DICKINSON: He is regularly employed by the Department of Justice as a special assistant to the Attorney General to assist counsel in this case.

MR. LINDABURY: Judge, I used the term because it is used in letters. I do not want to let it stand as a reflection upon Mr. Simmons. Let it be taken out of the question entirely.

MR. DICKINSON: No, I want it to stand, and the explanation to stand. I think it is an unfair attack on Mr. Simmons, and I propose to put him on the stand.

MR. SEVERANCE: Will you not permit an attack to be withdrawn, Judge?

MR. LINDABURY: Let it go. I should like to have him go on the stand. I have some letters that I should be glad to examine him about.

(Whereupon an adjournment was taken until to-morrow, Tuesday, November 25, 1913, at 10.30 o'clock a. m.).

ONE HUNDRED AND EIGHTEENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, November 25, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE, MR. BOLLING and MR. REED.

MR. DICKINSON: Mr. Simmons, take the stand.

FORREST D. SIMMONS

was recalled as a witness on behalf of the United States and duly sworn by the Examiner.

MR. LINDABURY: One moment. You are not putting in your case; we are putting in our case. I know of no right for the Government to put a witness on the stand now.

MR. DICKINSON: I am tendering Mr. Simmons in order that Mr. Lindabury may question him as he said he wanted to question him about some letters, and I present Mr. Simmons for the purpose of Mr. Lindabury questioning him about those letters if he desires to do so.

MR. LINDABURY: I will choose my own time for examining Mr. Simmons.

MR. DICKINSON: The reason I present him now is that Mr. Lindabury spoke of Mr. Simmons yesterday and called him a detective. Mr. Simmons has been associated with us in this case, has been in attendance from time to time throughout a period off and on for over a year, and if he wants to examine him in connection with that matter, why he can do so. If he does not now, Mr. Simmons will be ready at any time that Mr. Lindabury wants to examine him in regard to the let-

ters to which he referred. I understand you now do not desire to proceed?

MR. LINDABURY: I do not care to examine Mr. Simmons now and I will examine Mr. Simmons according to my own judgment, at my own convenience. With regard to the reference to Mr. Simmons yesterday as a detective, although I did not know, or at least did not have in mind until a statement was made that Mr. Simmons was a lawyer, or was engaged in the case, he has taken no part in it; his name has not been entered in the case anywhere as counsel in the case, and I did not remember it, and on speaking with Mr. Reed, he did not remember that he was a lawyer, and did not know it. I would not have used the term "detective" had I known it, or if I had been aware of his relations in the case, as counsel has now stated.

However, I think I ought to say, in justice to Mr. Simmons, that I did not mean to intimate yesterday that I thought Mr. Simmons had improperly influenced any witness in the giving of his testimony. It seemed unaccountable to me that the witness on the stand should have completely changed his story after I saw him, and I therefore asked him as to whether or not he had been interviewed, and he stated he had.

I am more convinced on reflection than I was yesterday that Mr. Simmons was not, in his interview with the witness, or with any other, guilty of any impropriety. I wish to state that freely and positively.

MR. DICKINSON: Mr. Dickinson, with the consent of Mr. Lindabury, states that Mr. Simmons is a graduate of the Northwestern University of Chicago, has been admitted to the bar of the State of Illinois, also the United States Court in California; has been a practicing attorney, and has been in the Department of Justice now for four years, and for more than a year has been commissioned by the Attorney General as a Special Assistant in this case.

MR. LINDABURY: I am very glad to be informed about the fact, and I was not at all aware of Mr. Simmons' relation to the case, and had regarded him as a person employed to look up evidence. I knew he was engaged in that, but I had not

known or thought of him as a practicing attorney, or in the relation in which I am now glad to hear he sustains to the case.

As to the letters referred to yesterday from people whom Mr. Simmons interviewed, while some of them are calculated to cause irritation, there were none of them that in any way involved his honor or indicated that he had been guilty of what any one should have regarded as improper conduct.

ALBERT E. CONVERS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. Cleveland, Ohio.

Q. What is your business?

A. My principal business is manufacturing tacks and small nails.

Q. Are you connected with any corporation?

A. The H. C. Tack Company is the corporation.

Q. What is your relation to the company?

A. President.

Q. What do the initials H. C. stand for?

A. Well, when the concern was formed twenty-five years ago the business was quite small, and it was called the Honest Count Tack Company, and it was then a limited partnership.

Q. You do not mean that you called it "Honest Count" when it was small, and when it grew you felt it necessary to abandon the name?

A. We did not like the sound of the name; it didn't sound dignified enough for a corporation.

Q. And so you changed the name and used the initials only?

A. Yes.

Q. How long have you been president, since 1903?

A. Since 1893.

Q. That is when it was incorporated?

A. That is when it was incorporated.

Q. Were you connected with it before?

A. Yes, I was connected with it from the time it was started; in fact it was my business. I have been in that business since 1881, and was formerly in Massachusetts. I wanted to get out nearer the center of consumption, and so I moved to Cleveland. I have always been at the head of the company; in fact it was my Massachusetts business expanded.

Q. When was it transferred to Cleveland?

A. 1887.

Q. What kind of tacks do you make?

A. We make all kinds of tacks and small nails up to a limit of two inches long; all kinds of tacks. There are fifty different kinds or more.

Q. Do you make them from sheets or wire?

A. Sheets wholly. I beg to say—I might interpolate there—that we do make a few tacks from wire, but the proportion is very small.

Q. Do you make any nails?

A. Small nails. Not penny nails; not as the general public understands nails, but we make small nails that are suitable for the shelf hardware trade and for the trunk and basket manufacturers. They are special nails, not the common nails that you see quoted every day.

Q. Are they different in quality?

A. Both in quality and shape. The quality is very high.

Q. So that they are not comparable with the ordinary nail?

A. Not at all.

Q. About what percentage of your output in tonnage or value, as you can most conveniently state it, is in the cut goods?

A. As compared with wire?

Q. Yes.

A. More than 90 per cent. Ten per cent. or less are wire; at the present time considerably less.

Q. How are your cut tacks made; that is, from what?

A. Sheet metal.

Q. That is a very old industry, is it not?

A. Oh, yes; it dates back to about 1825.

Q. And it is from sheets that the cut nails, which used to be the only ones we had, are made, I suppose, is it not? I mean the old cut nail of commerce; those are pretty much replaced now by the wire nails; they were made from sheets?

A. No, sir.

Q. How were they made?

A. I do not know just how much detail you want of this. I can give it all to you.

Q. Not a great deal.

A. The nails forty years ago—that is, up in the eastern district—were made principally from stock that was made by the little mills scattered around through New England, who used mostly what they called puddled iron. Steel was not in use at that time at all.

Q. Those were iron nails?

A. Yes, puddled iron nails, made from what was technically called at that time nail plate; it was about ten inches wide and rolled in strips perhaps 12 to 14 feet long.

Q. Have cut nails never been made to any extent from steel?

A. They are only made from steel now.

Q. But there are not many cut nails made now?

A. I am not in a position to state, because that is not my business.

Q. Not as much as they used to be?

A. They were all cut forty years ago.

Q. How large is your business? How many tacks do you make a year or a day or a week or a month, if you can give it. I think you told me how many you make a day.

A. Running just the way the business is running now, if it is interesting to you, in numbers it would be about 27,000,000 or 28,000,000.

Q. A day?

A. A day.

Q. Of course they are all made by machinery?

A. Made by machinery.

Q. How many machines do you employ to make that number a day?

A. I figure that on 150 machines, running 325 turns a minute ten hours a day; you can just figure it right up.

Q. How many men do you employ?

A. Well, I couldn't state offhand.

Q. No matter. How much sheet steel do you use?

A. About 3,000 tons a year.

Q. Excepting the wire you buy for your small production of wire nails——

A. (Interposing) Pardon me; the wire is used for making wire tacks, not wire nails. We are not in the wire nail business.

Q. You make a wire tack?

A. There is a certain proportion of tacks made out of wire; they are small little tacks about half an inch long.

Q. Are they special too, or are they the same as a tack of that size would be in commerce?

A. Just the same as any tack of that size (indicating the upholstery tacks in the back of the witness chair). Some are made from plate metal, and some of them from wire. We make them either way.

Q. Those that you make from wire are included within the ten per cent. of your output that you gave us?

A. Yes.

Q. Do you buy anything except the wire to make these small tacks and the sheets to make your cut tacks? Do you buy any other steel products?

A. No, sir. Well, I say no. That is a general answer to that question. We make a few of what are called furniture nails.

Q. Furniture nails with large heads that are used in upholstering furniture?

A. Yes, sir; with large heads. The head is made of sheet metal, that comes in the form of hoops. That we buy from the hoop mills. The shank is made of wire.

Q. Those heads are a quarter of an inch or more in diameter?

A. Yes (again indicating nail on the back of the witness

chair). They are from a quarter to three-eighths of an inch in diameter and are punched from hoops that we buy from the hoop mills, two inches wide.

Q. Take first the sheets you buy; where do you get them?

A. We buy them from any one of half a dozen or more mills that are in the market to furnish them.

Q. Suppose we take the ten years last past, and you tell us from what concerns you have bought them through that time?

A. We will begin with the Seneca Iron & Steel Company at Buffalo; the La Belle Iron Works at Steubenville; the American Sheet Steel—no, the American Sheet & Tin Plate Company, I believe the title is.

MR. DICKINSON: Did you mean both of those?

THE WITNESS: No; the American Sheet & Tin Plate Company is the right title, I think; the Youngstown Steel Company, now a part of the Brier Hill; and later from the Brier Hill Steel Company. We are buying from them now. Also the Allegheny Steel Company. I think that covers about all of them.

By MR. LINDABURY:

Q. Do you buy any from the Pennsylvania Steel Company?

A. No, sir.

Q. Have you not at any time?

A. Not that I know of.

Q. I got the name wrong, I believe. I should have referred to the West Penn Steel Company?

A. Oh, the West Penn?

Q. Yes.

A. We have bought small amounts from them.

Q. Is there a concern called the Apollo Steel Company?

A. That is a part of the American Sheet & Tin Plate Company.

Q. Oh, yes.

A. We bought two qualities from them, from their Dover Mill, at Dover, Ohio, and from their Apollo mill at Apollo,

Pennsylvania. Their Apollo quality they now make at Vandergrift, Pa. Those are two qualities from the same concern. I might add further that we could go to any sheet mill and by getting them coached in our requirements they could furnish probably what we would want to buy.

Q. Do you or not buy on a competitive basis?

A. On a competitive basis wholly.

Q. Has that been the case during the whole period of ten years?

A. Yes, sir; absolutely.

Q. Do you buy on periodic contracts or from time to time as your immediate necessities may require, or both ways?

A. Both ways; just according to the market.

Q. How is the larger part of your supply obtained? I mean, do you buy more on contracts than you do on single orders, or vice versa?

A. I should say more on contracts.

Q. For a period of months?

A. No, generally in quantities.

Q. You do not buy for future delivery very much?

A. Oh, yes; we buy, we will say, 500 or 1,000 tons, and we will give the contract, for instance, the first of October, to be taken out any time between that date and the first of January, as circumstances may require.

Q. And sometimes do you get a longer period for specifying your requirements?

A. Although we have not requested it frequently, still we could, at almost any time, make a six months' contract.

Q. When you are desirous of contracting or making a large purchase, even for immediate delivery, do you ask quotations from more than one concern?

A. Oh, yes. We would ask quotations from, I should say, five or six of those I have mentioned.

Q. Are you visited by the salesmen of the different manufacturers?

A. Yes, sir.

Q. With some regularity?

A. No; no regularity at all.

Q. I meant to say with some frequency?

A. Yes; quite frequently.

Q. That is the term I should have used. Do they submit quotations also in addition to those which have been specially asked by you?

A. Oh, yes; they always have their price.

Q. How have you found quotations generally during the last ten years—variant as between the different manufacturers or uniform?

A. If we send out a request for a price on 500 or 1,000 tons of plate, we would expect quotations, and I think they would turn out to vary about two dollars a ton between the highest and the lowest.

Q. Would there be some that would be in agreement?

A. Out of four or five, there would be likely to be two or three that would be just the same.

Q. Would those two or three be the same at different times, or would the two or three that would agree on different occasions be a different two or three?

A. If I understand your question correctly——

Q. It is not very clear——

A. Here are three that would agree at this time, and the next time it might be another three. There has been no uniformity whatever.

Q. That about answers what I was going to ask you—whether there were any two, even, that were uniformly in agreement?

A. No; not to my knowledge.

Q. At any time during this period?

A. Not to my knowledge.

Q. Has the competition between the different manufacturers of plate been keen and active during this period?

A. Most of the time it has been exceedingly keen, and it is just at the present time; has been for some time back.

Q. Yes. You can make most any terms you want to just now, I suppose?

A. Pretty nearly.

Q. With regard to your wire requirements, where were you able to fill them?

A. Principally from the American Steel & Wire Company. We use so little that we do not shop around for that.

Q. Then I shall not pursue that inquiry. Have you observed any indication of price fixing between the manufacturers of plates during the last ten years?

MR. DICKINSON: This is objected to as incompetent, because calling for a conclusion of the witness upon facts not shown.

THE WITNESS: No.

By MR. LINDABURY:

Q. Have you purchased any of your plate requirements from the American Sheet & Tin Plate Company?

A. At any time within the last ten years?

Q. Yes.

A. Yes, sir.

Q. Have you purchased from them during that whole period, or only part of it?

A. Part of it.

Q. When did you begin making purchases from them?

A. As nearly as I can remember, about the early part of 1910.

Q. Before that you obtained them elsewhere?

A. Elsewhere, wholly.

Q. And since you began—was it only in 1910? How many years ago?

A. We began to buy from them in a limited way in 1910; we bought quite largely in 1911; I do not think we have bought any from them since the fall of 1912.

Q. About what percentage of your requirements of plates have you bought from them during the last four years, or since you began purchasing? Take the whole period through.

A. I should say roughly about a third.

Q. And those purchases were made on a competitive basis, and in the way stated, were they?

A. Absolutely.

Q. On competitive quotations?

A. Yes, sir.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You said you purchased about 3,000 tons a year?

A. Yes, sir.

Q. Was that all plates?

A. Yes, sir.

Q. Steel plates?

A. Yes, sir.

Q. What sizes are they?

A. They run from No. 10, of which we purchased very little, down to No. 21 on the thin size, of which we also purchased very little. The size that we go by when we talk about buying plates is generally 16; that is, .065 of an inch thick.

Q. Now, in the market and between manufacturers and dealers, these particular kinds that you buy are designated as sheets, are they not?

A. Yes, sir.

Q. And they do not come under the general commercial term of plates, do they; doesn't that apply to different sizes?

A. No, they are sheets.

Q. Sheets?

A. Yes, sir.

Mr. Lindabury: That difference is in the size?

Mr. Colton: From 12 inch up, I think it is.

The Witness: That was in the thickness.

Mr. Lindabury: That is, the difference is in the thickness?

The Witness: That is, upon our product of sheets.

Mr. Lindabury: No, plates.

The Witness: The difference between our products——

By Mr. Dickinson:

Q. Your "products," you mean, what you buy?

A. What we buy, and what are commercially known as plates is the difference in thickness; our stuff is thin and plates are thick.

Q. And commercially your stuff is what is known as sheets?

A. Yes, sir.

Q. Those 27,000,000 of tacks a day, all that you make in the year, are made out of this 3,000 tons of sheet steel and of the wire you buy?

A. No, we buy 3,000 tons of sheets.

Q. And you make that into tacks?

A. Yes, sir.

Q. And then you buy some wire?

A. Yes, about 300 tons.

Q. And all of that together produces this 27,000,000 of tacks a day?

A. That is, the cut tacks.

Q. Then those 27,000,000 are all made out of 3,000 tons of sheets?

A. Yes, sir; exactly.

Q. Take the year 1912; how many tons of sheets did you purchase that year?

A. I should say 3,000; that has been about what we have purchased annually for quite a number of years.

Q. How far back?

A. I should say back as far as 1906 at any rate.

Q. Now, in the year 1912, state from whom you bought under term contracts, and the tonnage that you bought for that year?

A. I cannot give the tonnage very closely, but we bought from the La Belle Iron Works, from the Youngstown Steel Company, the Seneca Iron & Steel Company, and the American Sheet & Tin Plate Company.

Q. How many contracts in 1912 did you have with the American Sheet & Tin Plate Company?

A. The latter part of 1911 we had a contract with the American Sheet & Tin Plate Company that, it is my recollection, covered 1,200 tons; that was to be taken out and was taken out in four equal monthly shipments. My recollection is, the first one, I think, in January, 1912, and then equal monthly shipments thereafter.

Q. All of this 1,200 tons, then, was for 1912 use?

A. Yes, sir.

Q. And of the 3,000 tons that you used in 1912 you got 1,200 tons from the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. Now take 1911; how many contracts did you have with the American Sheet & Tin Plate Company?

A. It is my recollection that previous to the 1,200 ton contract we bought from them two or three hundred tons at a time; incidentally, you might say.

Q. How?

A. Incidentally, from time to time.

Q. How much altogether did you buy for 1911 delivery from the American Sheet & Tin Plate Company?

A. I would not think more than six or eight hundred tons.

Q. Have you any distinct recollection about that?

A. No; I have not.

Q. Take this contract that you made in the latter part of the year 1911 with the American Sheet & Tin Plate Company; what time of the year was that made?

A. My recollection is that was made in November, 1911.

Q. What part of November?

A. That I cannot say.

Q. Do you know the price you paid under that contract, the base price?

A. No, we do not buy on base. Different salesmen come in there and give us the base price and say, "We will quote you a base price of so much." We say, "Cut that out. Give us the price on the different sizes, 15, 16, 17, 18," and so on.

Q. Are those prices delivered at your place?

A. Yes, sir.

Q. And that includes freight?

A. That includes the freight.

Q. And all of your figures that you get in quotations, those would include freight?

A. Yes, sir; all the sheet mills quote the same terms in that respect; that is, it is all delivered or f. o. b. Cleveland.

Q. But they come from different points?

A. Yes, sir.

Q. They pay the freight?

A. Yes; in most cases they pay it. Some of the mills we pay it and charge it back. It amounts to the same thing.

Q. Their quotations, however, are the price of the commodity with the freight added, delivered to you?

A. Yes, sir.

Q. And those prices you say differed among each other?

A. Yes, sir.

Q. You do not know what freight now they actually paid on those several contracts, do you?

A. No, sir. I will modify that by saying what we know by general information, that of course from Pittsburgh the freight is 10 cents per hundred pounds and from Youngstown five cents per hundred pounds.

Q. Some of these bidders were from other points than Pittsburgh or Youngstown, weren't they?

A. From Buffalo.

MR. LINDABURY: The La Belle was not there.

THE WITNESS: That takes Pittsburgh freight; that is, I have understood that it does.

MR. LINDABURY: What about Steubenville?

THE WITNESS: I understand it takes Pittsburgh freight, but I am not sure of that.

BY MR. DICKINSON:

Q. Where they pay the freight that is not a matter that concerns you; you look at the concrete result?

A. Just what it costs.

Q. What it costs you?

A. What it costs laid down.

Q. And it is those quotations that you compare?

A. Yes, sir.

Q. And it is in those quotations you say, as I understood you, that out of four or five sometimes there would be as many as three alike?

MR. LINDABURY: I don't think he said that.

MR. DICKINSON: I am asking him.

THE WITNESS: Two or three might be alike.

MR. LINDABURY: Did he say out of four or five?

MR. DICKINSON: I think so.

MR. LINDABURY: I do not want to mention the number that I thought he said.

By MR. DICKINSON:

Q. I understood you to say that you solicited generally four or five bids?

A. Yes, sir.

Q. And out of those four or five bids sometimes there would be as many as three alike?

A. Yes, liable to be.

Q. You can not now recall, can you, the various times when they were alike, and which ones were alike?

A. No, sir; I could not, absolutely.

Q. And you can not recall the times when they may have been the same among themselves, and when there were different groups; you do not carry that in your mind?

A. No.

Q. And your impressions of that are very general, are they not?

A. I don't think I understand the question.

Q. I say, your impressions of that are very general?

A. Yes, very.

Q. You have had no special reason to charge your memory with that, have you?

A. Not at all.

Q. When the transactions were closed, the interest to you was ended, was it not?

A. Absolutely so.

Q. And would that be so throughout this whole period that you have been buying?

A. Yes; the past would have no effect for the future; what we bought day before yesterday would be no criterion for what we would buy tomorrow.

Q. Those contracts would run for a long time, would they?

A. I do not think we make a contract running over four months, but they quoted on solicitation and have given one to run six months.

Q. But as to what you actually do, generally?

A. Four months.

Q. The majority of your purchases have been made on contracts made at particular times?

A. I should think you might say the larger number.

Q. You do not know the relative proportions now?

A. No, I do not.

Q. For any of those years?

A. No, I do not.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. Did the uniformity or non-uniformity of the bids you received have anything to do with the locality of the bidders, so far as you could see?

A. No, sir; not at all.

Q. Competition, I suppose, was without regard to that, or there would not have been competition?

A. Wholly so; all we looked at was the price.

JOHN H. SMITH

was called as a witness on behalf of the defendants, and having been duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you reside?

A. Columbus, Ohio.

Q. What is your business?

A. Wholesale hardware.

Q. Have you a corporation?

A. Yes.

Q. What is it called?

A. The Smith Brothers Hardware Company.

Q. When was it formed?

A. 1891, I think it was.

Q. 1891; twenty-two years ago?

A. Yes; I think that is exactly right, 1891.

Q. And before that had the business been carried on in some other form?

A. It was Smith Brothers, and we were located at Delaware, twenty-five miles north of Columbus; about twenty-five miles.

Q. And the members consisted of you and another?

A. My brother.

Q. You and your brother?

A. Yes; the two of us.

Q. And you concluded to incorporate?

A. And moved from Delaware to Columbus.

Q. And then incorporated it?

A. Yes.

Q. Is your brother still living?

A. No; he died last March, the 7th of March.

Q. What is your relation with the company?

A. I am president of the company.

Q. Have you been president very long?

A. Only since his death. After his death we had a directors' meeting and I was elected president in place of my brother, deceased.

Q. What was your connection with the business before he died, and running back ten years or twelve years?

A. Buyer and general manager.

Q. What do you handle in your business in the way of steel products? I mean in the form in which it comes from the steel mills.

A. We handle nails, steel wire, barb wire, staples, poultry netting and wire cloth, field fence, market wire; and we keep the small spool wire, too.

Q. You mentioned nails, I think?

A. Oh, yes.

Q. Did you mention copper wire?

A. Copper wire? We sell small quantities of copper wire.

Q. Do you handle galvanized wire as distinguished from fence wire?

A. Well, fence wire is either smooth, plain or galvanized; we sell most of it galvanized.

Q. How many tons a year do you handle of wire products other than nails?

A. Other than nails? You mean outside of nails? You mean eliminating the nails only?

Q. Perhaps it is easier for you to eliminate nothing, but cover the wire products.

A. Well, that is a pretty hard thing to answer with any degree of accuracy. I mentioned, I think, that some time ago we handled probably 5,000 tons, but that would include a whole lot of things that would probably not come in there.

MR. COLTON: I can not hear you.

THE WITNESS: (Continuing) I got the figure out there a little later, and I should think it would be a safe estimate—on my first estimate I estimated that at 5,000 tons, but that would include a whole lot of manufactured goods that would not properly come under this; but I should think that 3,000 tons would be a fair estimate.

By MR. LINDABURY:

Q. What quantity of nails do you handle?

A. Possibly an average of, anyway, 500 kegs a day; I guess that would be too low, possibly.

Q. Do you get your nails in carload lots?

A. Altogether.

Q. How often do you buy a carload?

A. We get a carload or two a week; sometimes one car a week and sometimes two cars.

Q. From one to two carloads a week?

A. Yes; then we make a good many direct shipments of nails right direct from the factory.

Q. That is, you sell them and send the order to the factory for delivery to your customer?

A. To our customer.

Q. At the point where your customer is located?

A. Yes.

Q. How do you buy your supplies? On a competitive basis?

A. Always.

Q. Is that pretty necessary in such a trade as yours?

A. I would think that a person that wanted to be in shape to compete with the general competition he has to meet would have to buy that way, or he certainly would be up against it good and proper.

Q. Where do you sell your goods?

A. We cover central and southern Ohio, and we have a few towns in West Virginia and some in eastern Indiana. The bulk of our trade is in central and southern Ohio.

Q. Is that true of all the products that you have named?

A. Oh, yes.

Q. That is, plain and galvanized wire and fencing and nails?

A. Yes.

Q. How do you sell? Do you have canvassers on the road?

A. Yes, sir.

Q. You have a warehouse, then, I take it?

A. Oh, yes; we have a warehouse.

Q. And that is located in Columbus?

A. Yes; that is located in Columbus.

Q. Do you buy your supplies ordinarily on periodic contracts, or from time to time for immediate requirements?

A. Usually it depends altogether on the condition of our wants. Sometimes we will make a contract and clean that out quicker than ordinarily at other times; so we contract whenever we are in the market and we think the market is right. We never make any very large contracts; sometimes 100, sometimes 200, maybe 300 tons.

Q. I suppose you buy the nails and wire and all these wire products from the same manufacturers?

A. Oh, no; not from the same manufacturers.

Q. I did not mean that. I mean the same mills make all those things ordinarily, do they not?

A. I guess some of them do and some of them do not. For instance, take field fence. There are a few of them that do not make field fence at all and do not make poultry netting.

Q. We will take nails first: Where do you buy your nails; where have you bought your nails during the last ten or twelve years?

A. We buy from four or five different people.

Q. Name them.

A. We buy from the American Steel & Wire Company, from the Belfont Iron Works, from Jones & Laughlin, from the Cambria people, from the Pittsburgh Steel Company, and we have occasionally bought some in Youngstown, but not often.

Q. How long has your trade been divided among those various concerns?

A. Ever since we have been in the business. We have not had any particular place for buying any of those commodities. That is, in other words, we were not tied up with anyone. We always bought where we thought we could do the best.

Q. And do you, when making any considerable purchase, obtain quotations from more than one concern?

A. Yes, sir; as a rule we do.

Q. From how many of them?

A. We have men that call on us regularly. There are some of them there every week. There is not a week passes but some representative of some of these mills is there. In fact two of the representatives of the different mills are there every week; they drop in about every Saturday.

Q. What do they come for?

A. They come to see if there is a market for their goods.

Q. Do they quote you prices?

A. We almost always find out what the market is, when we have an opportunity. We always try to get all the information we can.

Q. Have you found that the offers and quotations from these different concerns were uniform or varying?

A. We do not pay any attention to the quotations. When we want to buy the question is, what will they sell the goods for. That is what interests us. We do not find the prices uniform by any means.

Q. By "quotations" I did not mean the Iron Age quotations.

A. No; I understand what you mean.

Q. Oh, you do not pay any attention to the price they first name to you?

A. No. If you come in to me and make a price on nails, we want to know what the other fellow is doing, and if he does not suit us we want to know what the other fellow is doing, and when we think we have got the right fellow we place an order.

Q. Has that been your custom?

A. That has always been our custom.

Q. Pursuing that custom, seeing the one fellow and then the other fellow, and then the third fellow, did you find them ordinarily to agree to disagree in their prices?

A. As a rule there is almost always one of those fellows that usually has a little something up his sleeve.

Q. What was that—you mean a better price?

A. A better price, yes.

Q. And was that always the same fellow?

A. No, sir; not by any means.

Q. It was different people?

A. Yes.

Q. How did you discover that thing up his sleeve?

A. In conversation with these representatives.

Q. Did the condition of the mills have anything to do with it?

A. I presume it would, although I would not know. I should imagine, however, that that would be the very thing that would have something to do with it.

Q. I wondered how you were able to discover the thing up his sleeve.

A. You take a person that has been buying goods for thirty or forty years, and he can discover anything if there is anything up there. He can pretty nearly dig it out before he gets through. That is the buyer's business.

Q. Have you found that what you have just said was true in the nail trade?

A. Oh, yes; yes, sir.

Q. How close are nails sold?

A. By the jobber?

Q. Yes.

A. Sometimes on a margin of 2½ cents a keg. When we can make five cents a keg we are doing well, getting rich.

Q. Those are the cases where they do not come to your warehouse, but you have sold them for shipments direct from the mill to your customer?

A. Yes.

Q. At 2½ cents a keg profit?

A. Yes.

Q. What variation, by the procedure that you have described, have you found in the prices of the different nail manufacturers?

A. As a rule not to exceed $1 a ton; sometimes 50 cents a ton.

Q. A dollar a ton would take about 40 per cent. of your profit, would it not, when you were selling at 2½ cents a keg profit?

A. Yes.

Q. So that was worth something to you.

Is there anything else that is sold quite as close as nails, that you handle? That is too general. I mean any other of these steel products.

A. Wire is sold on the same basis. You take a customer buying nails and as a rule he wants to make up a car. You take a carload buyer, and he has almost always got wire in the car with nails.

Q. Then wire goods generally are sold very close, are they?

A. They certainly are sold very close.

Q. And have you found this variation that you have spoken of extending to the whole line of wire products that you handle?

A. Yes; I do not think of a thing where there is not some variation in price, even down to spool wire.

Q. And has that been so during the whole ten years?

A. That has been so ever since I have been in business, as near as I can remember.

Q. And has the competition during the past ten or twelve

years in these steel products on the part of the manufacturers been keen and active?

MR. COLTON: That is objected to on the ground that it calls for a conclusion of the witness upon a state of facts not disclosed to the court.

THE WITNESS: It certainly has, yes; it has been active all the time; it has been a pretty good, keen competition.

By MR. LINDABURY:

Q. And how has that pretty good, keen competition been manifested to you?

A. By the anxiety of different representatives to get business.

Q. And how has that anxiety shown itself; that is, has it shown itself in price quotations? That is what I want to get at.

A. Yes; as a rule that was the way it was done; a person wanting business would make some concession to get it.

Q. I suppose you, in your experience of forty years, know competition when you see it, do you not?

A. Yes; I think possibly I can recognize it, yes.

Q. Has it ever been absent during the last ten years in this trade, so far as you have come in contact with it?

A. No, I would say not. I would say there has not been a time that there has not been more or less competition, not only on that, but take it clear through the line of goods, everything in the hardware line, you might say.

Q. Have you seen anything in the last ten years to indicate a combination or agreement to fix prices between the manufacturers of these steel products?

MR. COLTON: That is objected to on the ground that it calls for a conclusion of the witness upon a state of facts not disclosed to the court, and for his opinion upon the absence of certain facts that he may know of and not disclosed to the court.

THE WITNESS: Well, I will answer that by saying if there has been any agreement, it certainly has been violated for the last ten years. If a person has not been playing square

with his competitor, I do not know it if it has been so; if there has been any such thing, I have not known of it or seen any indications of it.

By Mr. Lindabury:

Q. I want to know whether or not, as you have come in contact with the trade, it has been so carried on as to indicate that there was a combination between manufacturers on prices.

A. I would say not.

Mr. Lindabury: Take the witness.

CROSS EXAMINATION

By Mr. Colton:

Q. Mr. Smith, there is a market price on wire nails, isn't there?

A. I presume there is a market price on everything; I do not know of a single commodity that there is not a market price on.

Q. What is that?

A. On any commodity, I don't care what it is, even on turnips.

Q. Have you had any experience in buying turnips?

A. Yes, I buy some every once in a while.

Q. And do you know the market price is the same in one city as it is in another?

A. No, I do not.

Q. It is very different, isn't it, in different cities?

A. It may be; I don't know.

Q. What products have you bought and sold besides steel, if any?

A. What do you mean, in a general line?

Q. Yes, as a business.

A. Everything that comes in the makeup of a general hardware store, tools, cutlery, sporting goods, builders' hardware, horse blankets, robes, anything that comes, practically, into a general hardware store; horse shoes, horse nails; thousands of things.

Q. During the nail pool of 1896 you were purchasing wire nails, weren't you?

A. Yes, sir.

Q. Couldn't you get somebody to violate the agreement then?

A. You are going back too far for me.

Q. You spoke two or three times about conditions ever since you had been in business, so I thought maybe you meant from 1891.

A. I do. I say there has not been a time, as far as my recollection goes, that there has not been some deviation and variation in prices.

Q. Somebody would cut under and give a concession from the general price; is that it?

A. Most always I was able to get fifty cents or a dollar a ton inside of the price from somebody; not always from the same one.

Q. Do you recall the nail pool of 1896 at all?

A. No, sir; I did not know there was any pool.

Q. And you went through that year and a half purchasing your products without knowing that the price was maintained by a nail pool?

MR. LINDABURY: I object. He said he did not know of any.

By MR. COLTON:

Q. Do you recall prices as more steady during the existence of the nail pool of 1896 than they were in 1897 and 1898?

A. I did not know there was any nail pool. We pay no attention to any kind of pool. We simply went into the market for the product; we got the prices from the different manufacturers, and the one who had the best price got the order.

Q. Do you recollect a cut in price made by Gates in 1900?

A. I remember the dollar drop on nails.

Q. Did that extend to all wire products?

A. That would carry nails and wire and barbed wire.

Q. There was a drop of a dollar a ton?

A. There was a drop there at that time of a dollar a hundred.

Q. That would be a drop of $20 a ton?

A. My recollection is that there was a drop of a dollar a keg on nails at that time.

Q. There was a similar drop on barbed wire and fence wire and market wire, wasn't there?

A. I do not know about the market wire, but nails and fence wire and barbed wire, the price on one always follows the other.

Q. And there was a drop on those products; is that right?

A. Yes. I have forgotten just the time that was.

Q. And you do not recall just how long the price stayed down, do you?

A. It has never been back up. I do not remember now how the base was at that time. Yes, it is higher now than it was at that time. Three-penny nails were on a different base price at that time. For instance, you take the base, you take the advance on the three-penny; it was a dollar and a half a keg, and now it is sixty cents.

Q. Wasn't the base price changed in 1896 instead of 1900, as you are now stating?

A. How is that?

Q. Was not the base price changed in 1896 instead of 1900, as you are now stating?

A. I do not remember the date; the advance has been changed. It used to be, for instance, on an eight-penny nail, twenty-five cents, and now it is only ten cents, the advance over the base price. It made a very big difference. The decline, you might say, from the base price, would be pretty hard to tell unless you figured out the different sizes, just exactly what the decline was on a certain size of nail.

Q. Who were you buying nails from in 1897 and 1898, before the formation of the American Steel & Wire Company?

A. Indeed I would not remember; we had been buying from the American Steel & Wire Company, we had been buying from Jones & Laughlin, we bought from Carnegie; we bought from the Belfont people.

Q. You bought from Carnegie?

A. Yes.

Q. When did you buy wire nails from Carnegie?

A. I don't remember.

Q. Did you buy from the Consolidated Wire Company before the formation of the American Steel & Wire Company?

A. I do not know that we ever had any account with the Consolidated Wire Company; not to my recollection.

Q. Did you buy from the H. P. Nail Company?

A. We used to buy from them when they were in existence; they have not been in existence for some time.

Q. Not since they were taken over by the Consolidated Steel & Wire Company?

A. I do not remember the date.

Q. Or the American Steel & Wire Company of Illinois?

A. I do not remember who absorbed it.

Q. You don't remember the period of time when you bought nails from Carnegie—what kind of nails did you buy from Carnegie?

A. We did not buy nails from them; we bought wire products.

Q. What kind of wire products did you buy from them?

A. I can not remember that; I do not remember what it was.

Q. You say you have been buying from the American Steel & Wire Company and Jones & Laughlin and Cambria and the Pittsburgh Steel Company and the Belfont Company these wire products, ever since you went in business in 1891; is that right?

A. No, because I do not think the Pittsburgh Steel Company was in existence at that time, making nails and wire, and I do not think Jones & Laughlin were making nails and wire at that time, either.

Q. And you do not think the Cambria was making nails and wire, do you?

A. I do not remember about those companies.

Q. You do not remember when any one of those companies began making wire products, do you?

A. No, sir.

Q. And could you give, within five years, of the time they began making wire products?

A. I would not want to state that.

Q. What companies did you buy wire products from in 1901?

A. That I can not answer, only in a general way, we have been buying from these people right straight along ever since we have been in business. We used to sell a good many cut nails.

Q. Don't you know, as a matter of fact, that in 1901 Jones & Laughlin and Cambria were not making wire?

A. I said myself I do not know when they started in.

Q. I want to know the different companies or parties from whom you purchased wire nails in 1901, so far as you recollect, if you have any recollection on the subject.

A. I have not any recollection, any more than I would say that we bought—I would not want to say who we bought from in 1901; I do not remember.

Q. Don't you remember you bought from the American Steel & Wire Company in 1901?

A. Very likely we did buy some from the American Steel & Wire Company, at that time.

Q. Now, would your answer be the same for 1902 as to the parties from whom you bought?

A. I would think, so far as the American Steel & Wire Company is concerned, it would answer for 1901 up to the present time.

Q. But as to the others, can you answer that you now recall that you purchased from any one of the companies other than the American Steel & Wire Company in the year 1902? If so, state which company?

A. I would not want to state which company, because I do not remember. We have been buying from the Belfont people for a great many years, and there is another concern down there right near the Belfont. What is that concern there? I forget the name of that concern; it is right near Belfont.

Q. Are you thinking of the Ashland Company?

A. No.

Mr. Lindabury: Maybe Mr. Reed can tell what other company is near Belfont; do you know?

The Witness: There is another one there; I think it may be in Kentucky; I am not sure whether it is Ohio or Kentucky; but we have ceased; we have not bought from them for several years.

Mr. Reed: I do not believe it is the Ashland Steel Company.

The Witness: I do not think it is the Ashland.

By Mr. Colton:

Q. Did you get any quotations from Jones & Laughlin in 1905?

A. I could not answer that question; I don't remember when Jones & Laughlin started.

Q. Did you get quotations from the Cambria in 1905?

A. I could not answer that.

Q. Or the Pittsburgh Steel Company?

A. I couldn't answer that.

Q. Can you tell me what percentage you bought from the American Steel & Wire Company in 1901?

A. No, sir; I could not.

Q. In 1902?

A. I could not.

Q. In 1903?

A. No.

Q. 1904?

A. No; I do not keep any record of that at all.

Q. Can you approximate what the percentage was you bought from the American Steel & Wire Company for any one of the years from 1901 to 1907, inclusive?

A. No, I could not.

Q. From 1907 to 1910, inclusive, can you approximate the percentage which you bought of the American Steel & Wire Company?

A. I would say possibly, approximately, or say probably 33 1/3 to 40 per cent.

Q. Now, prior to 1907 you bought the larger percentage from the American Steel & Wire Company, did you not?

A. I don't know.

Q. Prior to 1907, would you say as a matter of recollection that you purchased wire nails and the wire products you have named from any other company than the American Steel & Wire Company? If so, state which company it was and which year you purchased?

A. I haven't any record of it at all; I could not do it.

Q. Did you say record or recollection?

A. I have no record or even a recollection. I do not try to charge myself with any details of that kind, and it is unnecessary, so far as our business is concerned.

Q. And you have not charged yourself with a recollection of the bids of companies that you do not know whether you purchased from them or not?

A. No.

Q. You do not recollect for that period what the quotations from the different wire companies were, do you?

A. No, sir; I do not.

Q. Now, state the first year that you can recall having gotten quotations from several different companies on any particular purchase, and what those quotations were?

A. I couldn't answer that question.

Q. Can you recall that for any year?

A. No, sir.

Q. Or for any transaction?

A. No.

MR. LINDABURY: I suggest to counsel that he has three or four questions in one, and the witness' answer must not be taken as indicating that he could not give any of it.

MR. COLTON: Have the question read to the witness.

MR. LINDABURY: It is one of Judge Dickinson's favorite questions, asking so many things all in one question that he cannot say yes.

(Here the last three questions and answers were repeated by the stenographer.)

MR. COLTON: Is that right?

THE WITNESS: That is right.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. You have already told us that 33 1-3 per cent. of your requirements purchased from the American Steel & Wire Company is purchased on a competitive basis. Among how many concerns is the balance of your requirements divided in number?

A. Well, for the last few years, say the last two years, you might say, it has been divided between four, and sometimes the fifth.

Q. Would you mind mentioning them again?

A. Yes, Jones & Laughlin, the Cambria, the Pittsburgh Steel, the Belfont people and the American Steel & Wire Company.

Q. And before the last two years, running back two or three more, among how many was it divided?

A. That I could not answer.

Q. You do not recall that?

A. No, sir.

Q. Were the purchases from those outside of the American Steel & Wire Company also made on a strictly competitive basis? You spoke of making purchases from the American Steel & Wire Company on a competitive basis because their prices were better?

A. Yes.

Q. Now, on the occasions that you bought from others, was that also for the same reason, that their prices were better?

A. We always tried to get and did take the best price. We have sometimes paid more simply because we could not get prompt shipments from the other parties, and we would pay fifty cents to a dollar a ton more so as to get prompt shipments; but we were drawing from the fellow with the low price all we could get. Sometimes they were crowded up and could not make prompt delivery, so we would have to go some place else and pay possibly 50 cents to a dollar a ton more.

SAMUEL D. LATTY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. Reed:

Q. Where do you live, Mr. Latty?

A. Cleveland, Ohio.

Q. What is your occupation?

A. Manufacturer of bolts and kindred hardware lines.

Q. What is the name of your company?

A. The Kirk-Latty Manufacturing Company.

Q. And you are president of that company?

A. I am.

Q. Are you familiar with its purchases of steel supplies?

A. In a general way I am, with the final arrangements for all of the details of the purchases of any important tonnage.

Q. And have you also an acquaintance with its purchase of other supplies besides steel?

A. Yes.

Q. About how much capital have you in that business at the present time?

A. About half a million dollars.

Q. How much had you ten years ago?

A. Probably $200,000.

Q. Twenty years ago?

A. About ten.

Q. It is a prosperous business, then, is it not?

A. It has been coming in the right direction most of the time.

Q. What kind of steel supplies do you buy?

A. We buy bars, rounds, squares, half-ovals, hoops, bands, sheets; those are our important purchases, as well as wire.

Q. The rounds, squares, and half-ovals that you speak of are all bar mill products, are they not?

A. They are all bar mill products.

Q. And are covered by the generic term bars?

A. Yes.

Q. Can you give us any idea of the quantity of your purchases of steel supplies annually?

A. About a quarter of a million dollars a year.

Q. Do you buy on periodic contracts, or do you buy from time to time, as your needs may require?

A. We usually make semi-annual contracts.

Q. Before awarding those contracts, Mr. Latty, do you ask bids from different manufacturers of these products that you have named?

A. We ask bids from three or four different manufacturers; usually from four.

Q. Of these different products?

A. Of these different products.

Q. Why do you not ask bids from more than three or four different manufacturrs?

A. Because it has been my policy not to scatter my business too much. I have found that that gives the competition, and I wanted to make my business with every company that I bought goods of desirable enough so that they would care for it in a way that would be satisfactory to us.

Q. Then your limiting your inquiries to three or four concerns has not been because there were not any more?

A. There are several others. There are as many more that we might ask bids from on most of that material.

Q. How about the quotations that you get from these different concerns on the products that you have named, Mr. Latty; do they vary in price or are they uniform?

A. Over the term that my memory takes me I have been able to find differences at most all times.

Q. In what kind of times have the differences been the most noticeable?

A. Competition, of course, is always keener in lean years than it is in full ones,—the years when we are all congested.

Q. In the years when you are congested with orders have you invariably found competition?

A. Yes.

Q. In those years how have prices ranged? Have they been uniform or varying?

A. We have found variations from one to two dollars a ton. Sometimes, under panicky conditions, we have found from three to four dollars a ton; three dollars a ton, to my recollection.

Q. Then the competition seems to bear some relation to the general prosperity of the steel industry, does it not?

A. Yes; but no more so than it does in any other line of commodities.

Q. How long has it been so, or how long do you remember that these same conditions have obtained, Mr. Latty?

A. I am not very strong on dates, I guess, like most busy men, but I should say with a clear memory probably six or seven years.

CROSS EXAMINATION.

By Mr. Colton:

Q. What contracts did you make in the year 1913, Mr. Latty?

A. Last year?

Q. No; this year; up to the present time.

A. This year I have had three or four; I guess four.

Q. With what companies?

A. Jones & Laughlin, the Republic Iron & Steel Company, the Sharon Sheet & Tin Plate Company—I think that is the title,——

Q. Is that the Sharon Sheet & Tin Plate Company or the Sharon Hoop Company?

A. The Sharon Sheet & Tin Plate Company, I think; and the United States Steel Corporation.

Q. Confining your attention to bars, have you had bar contracts with all those companies?

A. We have had contracts with the Republic Iron & Steel Company,—if you will permit me, I would like to add another one to the companies mentioned in answer to your last question, that slipped my memory, and that is the Upson Nut Company. We have had bar contracts with the Upson Nut Company; I am not sure about Jones & Laughlin for this year, so

I guess you had better question mark that; the Republic Iron & Steel Company and the Carnegie Company.

Q. Were any of those iron bars that you bought?

A. No iron bars; steel bars.

Q. What tonnage have you got from the Steel Corporation?

A. I have not any specific figures with me on that.

Q. Approximately?

A. I can give you the figures approximately, and with reasonable accuracy. You are talking, now, of the Steel Corporation as a whole?

Q. Yes.

A. Somewhere from 40 to 60 per cent.

Q. What different companies have you secured that from, within the Steel Corporation?

A. The Carnegie Steel Company and the American Steel & Wire Company.

Q. Have you bought the same kind of bars from the Carnegie Company that you bought from the American Steel & Wire Company?

A. No, sir; they do not make them.

Q. Confining yourself to the kind of bars that you have gotten from the Carnegie Steel Company, have you got the same sort of bars from the Republic Iron & Steel Company as you have from the Carnegie?

A. Yes.

Q. And the same sort of bars from the Upson Nut Company that you bought from the Carnegie?

A. Yes.

Q. Then, leaving out the purchases you made from the American Steel & Wire Company, what percentage of your bar purchases have been made from the Carnegie Company?

A. I should say about that same proportion,—40 to 60 per cent.

It is barely possible this particular year that we dealt a little more with Carnegie because the other companies with their other connections fell down badly on deliveries.

Q. What was, approximately, the tonnage that you gave to Carnegie this year?

A. I can not give it; I have not got it.

Q. Do you know what your total tonnage was this year?

A. No, sir.

Q. Do you have any idea what it was in bars?

A. No; I can not give it on that basis. We make contracts of 500 to 1,000 to 2,000 tons; we scatter it around, so I could not give it to you.

Q. With Carnegie how many contracts have you made this year?

A. Either one or two; two, if we did not come into this year with one.

Q. What was the first contract for this year's supply that you made with Carnegie, as near as you can give it in point of time and tonnage?

A. Six months. I have never been able to make contracts for a longer period than six months.

Q. They won't give you a longer period?

A. No, sir; they will not. They will not give it.

Q. That is your belief, that they won't give it?

A. To me; they won't, any of them, give it to me.

Q. I want, as nearly as you can give, the time that you made the contract with the Carnegie Company covering supplies for this year; the first one of the two.

A. I can not give you that, because I am not quite clear in my mind whether we came into this year with one made last year, or whether we made two this year, whether we made one January 1st which expired in July, and then made another one.

Q. Could you give me about the date of the first one? Say about January 1, 1913, would it be?

A. I can not tell you.

Q. Take the second one, then; about when was that?

A. I have answered that question; I can not tell you the dates that I made contracts with anybody this year, without going to my records.

Q. Could you give me approximately the date that you made that second contract with Carnegie?

A. I could set up some figures, but I would not want to stand behind anything that I could not carry clearly in my mind.

Q. You would not say within three months of the time?

A. I will not answer the question, because I have not any facts.

Q. You could not remember the date of the making of the other contract?

A. No, sir.

Q. Could you give me the base price on that contract with the Carnegie, that last one?

A. The price at which that last one was made?

Q. Yes, the price Carnegie gave you.

A. Either $1.35 or $1.40; I am not clear on that.

Q. That is as close as you can give it, $1.35 or $1.40?

A. I have both kinds of contracts; I made them at that same time with different people.

Q. Did you make any other contract at that same time?

A. About that same time, I presume; about the same time, because the buying period is started about that time.

Q. You do not know whether it was made within a month or two months of that time, do you?

A. No, I do not; I would imagine it would be made within a month of that time.

Q. What other contract have you made within about a month of that time of this Carnegie contract that we are now speaking of?

A. I think I made one with the Republic about the same time, and I think I made one with the Upson Nut Company about the same time.

Q. What was the base price in the Republic contract?

A. $1.35.

Q. What was the base price in the Upson Nut Company's contract?

A. $1.40; that is, Pittsburgh, of course, we are talking of.

Q. Do you remember distinctly that that was $1.40 in the Upson Nut Company?

A. Absolutely.

Q. $1.40 was the market price at that time, wasn't it?

A. I bought steel about that same time for $1.35, so I do not know which was the market price.

Q. Who did you buy it from at $1.35?

A. Some from the Republic at $1.35.

Q. But that may have been a month or so apart, may it not?

A. I can not answer that, but I used to go in to buy my total tonnage for some given period, and I usually buy it all at once.

Q. For that tonnage that you can not recollect at all how much it was with Carnegie on that second contract, did you submit that particular amount of steel to any other company than the Carnegie Company to be furnished to you?

A. Yes, sir; always. I asked the Upson Nut Company, the Republic and J. & L. and the Carnegie Steel Company.

Q. Can you now recollect definitely the quotations given you by the Upson Nut Company on that particular steel?

A. I can only support that statement by the fact that the Upson Nut Company are always as high as anybody on steel in the Cleveland market.

Q. Then your general impression about what the Upson Nut Company would be——

A. I know that they are as high as anybody, always.

Q. But you can not give me what their figure was on that particular contract?

A. I would say $1.40. I did say so.

Q. What was the Republic's figure on that particular quantity of steel?

A. $1.35.

Q. What was the Carnegie Company's figure?

A. $1.40.

Q. What was Jones & Laughlin's figure on it?

A. I do not remember; they did not get any of my tonnage.

Q. You awarded that to Carnegie?

A. Only part of it.

Q. And a part of it you awarded to the Republic?

A. To the Republic; part of it to the Upson.

Q. And you gave a part of it the Upson Nut Company?

A. Yes, sir.

Q. And the Upson Nut Company is located nearer to you, isn't it?

A. Yes, sir.

Q. And the freight rate is about five cents?

A. Five cents to Cleveland; that is the basis of Pittsburgh. Ten cents to the Cleveland market.

Q. So the freight paid by the Upson Company was less than the freight paid by the other companies?

A. Yes; but they charge it up just the same; they base their selling price $1.50 Cleveland, and the market $1.40 Pittsburgh.

Q. They use the Pittsburgh base, in other words?

A. Yes, sir.

Q. Now, take 1912; what was the first contract that you made with the Carnegie Company for the year 1912?

A. I do not remember the dates; we have contracts running with Carnegie and the Republic all the time. My memory won't take me back to when we did not have a contract running with the Republic.

Q. Will your memory take you back to the base price on these different contracts with the Republic and Carnegie for the year 1912?

A. 1912? I had steel bought all the way from $1.05 to $1.25.

Q. And in 1911, there were wide variations in the prices of steels, weren't there?

A. Yes, I think there were.

Q. Now, in 1911, don't you recall that there was a very decided break in the price of steel bars during that year?

A. No, I do not. We got a break in the tail end of 1907 and took it through 1908; I recall that very distinctly.

Q. You do not recall the break about the time the Republic gave notice it would not continue in the cooperative movement?

A. That I am not familiar with.

Q. Don't you know enough about prices of steel bars to

know that about the beginning of the year 1911 the price was about $1.40?

A. No, sir; I do not remember what the price was. Those things are matters of record in my office, and I throw them over my shoulder and out of my mind as rapidly as I can get through using them.

Q. You do not recall that the price dropped to something like $1.05 in the course of 1911?

A. No, sir; I do not.

Q. Now, in 1907 you recall that the price dropped, you say?

A. At the tail end of 1907; I do not know as the price dropped at that time; it may have been the first of 1908.

Q. May it not have been the first of 1909 that you really got the drop in prices?

A. No, we got it in 1908.

Q. How much of a drop did you get in 1908?

A. I can not tell, but I know that we got a drop in 1908. The competition was very keen.

Q. Was it towards the close of the year?

A. No; I was in Europe that summer, and that is one way I have of checking up the time.

Q. You were away in what summer?

A. 1908, a couple of months. That is why my dates are better about that time than about some of those other months that you asked me about.

Q. You do not recollect any break in 1908, do you?

A. No, but in a general way—I can only speak in a general way—I have not the figures with me.

Q. Do you recollect a break in 1909?

A. No.

Q. Did you purchase any steel bars in 1909?

A. We purchase steel bars every year.

Q. Take the year 1910, with what different companies did you contract for steel bars?

A. Two or three; yes, three, the Republic, J. & L. and Carnegie.

Q. Can you tell me how many contracts you had with Carnegie?

A. I usually have two a year with all of them.

Q. You haven't any definite recollection what you had with Carnegie?

A. I might have had only one in that year, and then took enough to put me through that year.

Q. Do you remember the base price in the contract with Carnegie?

A. No, sir; I cannot recall those prices; there are too many prices that come to me to lug those prices around in the back of my head.

Q. You do not recall the variations in the base prices that year between Jones & Laughlin, the Carnegie and Republic, for the year 1910, as a matter of recollection; do you?

A. Not with any definite figures that I could give you, that I could feel were reasonably accurate.

Q. And you could not say whether they were all at a $1.60 base or a $1.45 base, or what they were?

A. I can only generalize on those things; we have always had competition with three or four companies that we have bought with, and we have invariably had different prices. I have made contracts with those companies when there has been a dollar difference between the two, because I wanted to protect myself by having two or three sources of supply, to assure me of my tonnage.

Q. Now, as a matter of recollection do you recall that the prices of the Republic and the Carnegie were not the same in 1910?

A. I do not.

Q. And as a matter of recollection you do not recall that the prices of Carnegie and Jones & Laughlin were not the same?

A. In 1910?

Q. In 1910; if so, state the prices.

A. No; I cannot.

Q. Can you for any year back of 1910 state the base prices upon which you let the contracts, and the companies to which you let them?

A. No, I cannot; I can only give you in a general way, as I recollect, about what the markets were.

Q. Did you get more than one bid in making those contracts?

A. Always.

Q. I mean did you get more than one bid from the same party?

A. Yes; sometimes we went back and tried to work out a little lower price by the usual buying methods.

Q. And get a concession?

A. A revision of their bids; that is the right name for it.

Q. You do not recall what the first bids were of those different companies, do you?

A. No.

Q. Take the year 1910; have you any recollection as to what the first bids of those four companies were?

A. Here is our——

Q. (Interposing) I wish you would answer the question, if you will, and then you can make any explanation you like.

MR. REED: Just a minute. Mr. Latty started to answer that and he got two words out, and you stopped him.

MR. COLTON: Yes; I called his attention to the fact that I wished him to answer the question.

MR. REED: How do you know he was not going to answer the question? From the two words he uttered you do not know that he was not. Mr. Latty, please go ahead without interruption, if that is possible.

(The question was repeated by the stenographer.)

THE WITNESS: No, sir.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM H. TODD

was called as a witness on behalf of the defendants, and, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Brooklyn, Hotel Bossert.

Q. What is your business?

A. President of the Robins Dry Dock & Repair Company.

Q. How long have you been president of the Robins Dry Dock & Repair Company?

A. About three years.

Q. Prior to that what was your position with the company?

A. Vice-President for about two years.

Q. And before that?

A. I was superintendent for about six years.

Q. In what year did you become superintendent?

A. About 1903 or 1904; somewhere around there.

Q. And before that what was your position with the company?

A. Assistant superintendent.

Q. For how long?

A. For about four years, I think.

Q. In what business is the Robins Dry Dock & Repair Company engaged?

A. Repairing and some little building, ship building; that is, yacht building, but repairing on big steamers, and dry docking.

Q. Where is its place of business?

A. Erie Basin, Brooklyn.

Q. What kind of steel purchases does that company make, Mr. Todd?

A. Almost all kinds; plates, shapes, beams and bars, rivets —everything that pertains to the construction of a ship.

Q. Everything that goes into the building of a steel ship?

A. Yes, sir.

Q. How long have you been familiar with the purchases that that company has made?

A. I would say about seven years; seven or eight years.

Q. That is since about the time you became superintendent, which was, I think you said, in the year 1905?

A. Yes; at least the latter part of my time as superintendent.

Q. Can you give us any idea, Mr. Todd, of the total amount that your company spends annually in buying steel?

A. We keep about 200 tons in stock; that is, plates and shapes as well. I would say that is about one-half of each; about 100 tons of plates and about 100 tons of shapes. I would say that we spend in plates on an average, in money, about $25,000.

Q. A year.

A. Yes; and in plates probably 75 per cent. of that.

Q. Do you buy your plates on annual contracts, or do you buy them as you need them?

A. We buy them as we need them.

Q. Do you ask quotations before you award your orders?

A. Always.

Q. From what companies do you ask quotations on plates?

A. There are different companies. There is the Lukens Company, and Worth, and Carnegie.

Q. Any others?

A. Not within the last five or six years.

Q. Do you ever get quotations from any jobbers?

A. No, sir.

Q. On plates?

A. What do you mean by "jobbers"? I thought Worth and Lukens were what might be called agents. I don't know. We buy other plates where we do not get any quotations. We know that we have to pay for getting them over night, or in a hurry, and we know that that is about the only mill that has furnished them to us in that way; the company I speak of is D. F. Cooney & Company, and we buy direct from them.

Q. What steel company do they represent, if you know?

A. I think it is the Glasgow Iron Mill or the Glasgow Steel Company——

Q. It is the Glasgow Company, anyway, whatever its right name is?

A. Yes, sir.

Q. But your purchases from them are usually out of stock, are they?

A. Yes, sir; out of stock or hurried delivery from the mill.

Q. Do you ask quotations from Carnegie, Worth and Lukens before awarding a contract for plates?

A. Always; by letter.

Q. And you have been doing that for some time?

A. Yes, sir.

Q. How do the quotations that you receive range in price? Are they uniform or do they vary?

A. No; I do not recall their ever being uniform; and I do know that I have always felt that they always varied. That is my recollection.

Q. How long has that been so?

A. Ever since I have had anything to do with writing letters, and that has been about seven years; seven or eight years.

Q. Do their salesmen come to see you?

A. Day and night, sometimes, trying to get orders.

Q. How would you characterize the competition?

A. We would consider not only the price but the service and delivery as well, which means a lot to us.

Q. I do not think you understood my question. Would you say the competition was keen or otherwise?

A. I would say it is otherwise. We certainly felt that, or I would not be writing to each one of them every time we had an order.

Q. Your answer shows, Mr. Todd, that you did not catch what I asked you. I say, would you say the competition was keen competition or not?

A. I would say it was keen.

Q. How about shapes, Mr. Todd?

A. With those we ask the Eastern Steel and the Phoenix, I think it is, and the Carnegie.

Q. And do their quotations vary or are they uniform?

A. They vary.

Q. How long has that been so?

A. Ever since I have been ordering material.

Q. Do you believe that you get competition there too?

A. Yes, sir.

Q. Why don't you ask quotations from more than these

three plate makers, or more than these three structural shape makers?

A. We believe we get the benefit of any competition that it is possible to get. We thought we were getting keen competition, and while I recall one time where we got prices from some other people, away back, their delivery was away behind what they had promised, and their price was no advantage.

Q. I see; because you did not get the material?

A. Yes; the service was bad.

Q. You found you got the best service from these three sources of supply?

A. Yes, sir; oh, yes.

CROSS EXAMINATION

By Mr. Colton:

Q. How many tons of plates did you buy in 1907?

A. How many tons of plates did we buy in 1907?

Q. Yes.

A. I don't know, in tons. I would say about $20,000 in money.

Q. Can't you give me any idea what that would be in tons?

A. If I was asked offhand I would say about a cent and three-quarters a pound. You can calculate that.

Q. Can you tell me what that would be in tons?

Mr. Reed: Isn't that simple arithmetic?

Mr. Colton: I want to get it from him if I can.

By Mr. Colton:

Q. Approximately?

A. 2,000 times $1\frac{3}{4}$; that is about $37.50.

Q. About $37.50 a ton that you paid?

Mr. Reed: That would be $35.

The Witness: I would imagine at that time about a cent and three-quarters.

By Mr. Colton:

Q. About $1.75 a hundred would be your recollection of the market price in 1907?

A. Yes.

MR. REED: That is $35 a ton, isn't it; I do not like to boast of my arithmetic, but that is $35 a ton and not $37.50 a ton, isn't it?

MR. COLTON: $1.75 a hundred I was suggesting.

THE WITNESS: $1.75 a hundred; in tons I would imagine that was about $35 or $37 a ton. That means $20,000.

By MR. COLTON:

Q. You buy plates by the short ton?

A. No, that would be long tons.

Q. Did you ask Carnegie for quotations in 1907?

A. Yes, sir.

Q. Do you know what Carnegie quoted in 1907?

A. Not just now; I could get it for you.

Q. How many contracts did you make with Carnegie in 1907?

A. I do not know that now, but I can get it all for you.

Q. I am just asking you about your memory as far as you know.

A. I don't know. I think within the last—up to the last two or three years I think it was very little we bought from Carnegie. We bought from Lukens and Worth.

Q. You bought almost altogether from Lukens and Worth?

A. Yes, sir.

Q. You are small purchasers of plates?

A. Larger than all of them put together in New York; about, as I said, $20,000 worth a year.

Q. $20,000 worth of plates a year?

A. Yes, sir.

Q. And these are ship plates?

A. Yes, sir.

Q. They are different from tank plates?

A. Some of it is tank plate.

Q. Most of it is ship plate?

A. Most of it is ship plate.

Q. And you bought very little from Carnegie in 1907?

A. I think we bought very little from Carnegie up to 1908 or 1909.

Q. Do you remember what was the difference, if any, be-

tween Lukens and Worth on ship plate that you bought from them?

A. I do not remember at that time, but there was a difference, I would say.

Q. But you do not remember that?

A. No, sir.

Q. Do you remember what was the difference between Worth and Carnegie at that time?

A. No, sir.

Q. Or between Lukens and Carnegie at that time?

A. No, sir.

Q. Take the year 1908. What companies did you buy ship plates from?

A. Either Lukens or Worth, I should say.

Q. You don't know whether you bought from both of them or not?

A. I would say we did buy from both of them; yes, sir.

Q. You do not recall now whether you paid them both the same price, do you?

A. No; we did not get the same prices quoted. We may have paid the same price to each one at different times in the year.

Q. Do you know what Lukens quoted you at any time during the year 1908?

A. No, sir.

Q. Do you know what Worth quoted you at any time during the year 1908?

A. No, sir.

Q. Do you know what Carnegie quoted you at any time during the year 1908?

A. No, sir; but I can get it.

Q. You do not know what variation there was during that year, 1908, of the three concerns?

A. No; I generally know the quotations; they come in by telephone and are laid before me. I know I always write them letters asking for quotations.

Q. You get quotations by telephone, do you?

A. Yes; most of the time.

Q. And you write them a letter for quotation after getting the telephone?

A. No, sir; we write them first giving them a list, and they give us an answer.

Q. Do they quote you f. o. b. Pittsburgh, or delivered?

A. They quote us f. o. b. lighterage limits, New York.

Q. You do not know whether the price f. o. b. Pittsburgh was the same or not?

A. I do not recall. We have never had any such quotation as f. o. b. Pittsburgh.

Q. As a matter of fact you do not know whether allowing for freight the price would be the same Pittsburgh or not, do you?

A. No, sir; I don't know what the freight is.

MR. REED: You don't mean the freight is any different from one than the other, do you?

MR. COLTON: I think the question is clear.

MR. REED: The question may be, but your meaning is not clear.

By MR. COLTON:

Q. Take the year 1909; how many plates did you buy that year?

A. I would say on an average about 20 to 25 thousand dollars a year.

Q. How many plates did you buy from Carnegie in 1909?

A. I do not know that we bought any from Carnegie; I don't know as we bought any plates from Carnegie up to two years ago; that is, any to speak of.

Q. Did you buy any from Worth in 1909?

A. Yes, sir; and Lukens.

Q. Do you remember the price in 1909 as between those different companies?

A. No, sir; not now, I do not

Q. Take the year 1910, did you buy any plates from Carnegie in 1910?

A. I don't think so.

Q. And you do not remember what price Carnegie quoted you in 1910, do you?

A. No, sir.

Q. Did you buy any from Worth in 1910?

A. Yes, sir.

Q. Did you buy any from Lukens in 1910?

A. Yes, sir.

Q. Do you remember what price you paid Worth in 1910?

A. No, sir.

Q. Do you remember what price you paid Lukens in 1910?

A. No, sir.

Q. Do you know whether the price you paid each of them was the same or not?

A. I know they were not at all times during the year.

Q. They were not at all times the same?

A. No, sir.

Q. But you do not know whether the actual prices you paid those companies were the same or not between those two companies?

A. I know at different times in the year, when we got prices, say in January of 1910, Lukens' price may have been low for stuff we ordered in January; in August Worth's price might have been low, and the same price I paid Lukens in January.

Q. That may have been the case, but you do not recollect anything about it now, do you?

A. No, sir; I do not.

Q. Take 1911; what companies did you buy from?

A. I think we began to get some from Carnegie then.

Q. In 1911 there was a cut in the price of plates; don't you remember that?

A. I do not, no. I know that plates are cheaper now. I do not know just when that started.

Q. Plates have been cheaper for a year or two, have they, than they were before?

A. I should say so.

Q. Is that true also of beams?

A. Yes, I would think so.

Q. You do not know just when that lower price started in beams and plates?

A. No, sir.

Q. What other sort of steel do you buy?

A. We buy bar steel and rivets.

Q. Wasn't there a drop in 1911 in bar steel also?

A. Maybe so. Not that I recall, though. We buy so little of that.

Q. You buy very little of bar steel and do not keep in touch with the market or prices?

A. No, sir.

Q. Do you remember in 1911 that the Carnegie price differed from the Lukens price on plates?

A. If we bought the steel from them it did in 1911, and I believe we did.

Q. Have you any recollection as to any difference in price between Carnegie and Lukens in 1911, Mr. Todd?

A. Do I have any recollection?

Q. Yes.

A. No.

Q. Do you have any recollection as to the difference in price between Lukens and Worth in 1911?

A. No.

Q. What is the first year that you do have any recollection as to difference in price——

A. I have a recollection ever since we have been buying stuff, that there is a difference——

Q. No, wait until I complete my question.

MR. REED: Let him answer.

MR. COLTON: I had not finished my question.

Will you read the record?

(The stenographer thereupon read the question as follows:)

"Q. What is the first year that you do have any recollection as to difference in price——"

By MR. COLTON:

Q. As between these different companies on the steel actually purchased by you?

A. Ever since I have had anything to do with the purchase of steel; it has been about seven years.

Q. I understood you to say a minute ago that you could not tell me whether the price you actually paid Lukens for

the year 1911 was the same price that you paid Worth or not? Is that correct?

A. I do not know who we bought the stuff from in 1911, and I tried to explain to you that we might have bought either from Lukens, the first part of 1911; how can I answer that question; if you can tell me I would like to know. That is what I mean.

Q. Then you do not have any recollection about it, do you?

A. I recollect this; I recollect that every time we were quoted—not every time, maybe—I will say every time, yes, that we would write letters asking for quotations, the prices that would come in would not be all alike, and we gave it to the lowest bidder, whether it was Lukens, whether it was Worth, or whether I paid Lukens more than Worth——

Q. Did you trade on those quotations?

MR. REED: Let him finish his answer.

THE WITNESS: Did I trade on them?

By MR. COLTON:

Q. Yes.

A. What do you mean, trade on them?

Q. Did you buy on those quotations as they came in?

A. Yes.

Q. And you did not do any bargaining on those?

A. What do you mean?

Q. You did not ask for any lower prices?

A. No, sir; not after we got our quotations.

Q. You just took those quotations?

A. Yes; dealt with them as we got them, and did not do any bargaining.

Q. And you say they were not all the same?

A. No.

Q. But as between the Carnegie and Worth, you do not say they were not the same?

A. I couldn't tell you that; I could not recall.

Q. And you only dealt with those three companies?

A. That is all, in the last six or seven years.

Q. Would your answers be the same for each of the years?

A. Yes.

Q. And is the same thing true in respect to beams?

A. Yes, except with different companies.

Q. What companies did you buy beams from in 1907?

A. The Eastern Steel Company, Phoenix Steel Company and Carnegie; sometimes we bought some from abroad, when we could not wait, or the rolls did not just suit us.

Q. What kind did you buy?

A. I beams, channel beams, Z bars——

Q. Used in shipbuilding?

MR. REED: Had you finished your answer?

THE WITNESS: I beams, channel bars, Z bars, angle bulbs and T bolts.

By MR. COLTON:

Q. What percentage of your beams did you buy from the Eastern Steel Company in 1907?

A. From the Eastern, I do not know, now; I could not tell you.

Q. Do you know whether you bought any from the Eastern?

A. I do not know; I know we bought from the three of them since I was made superintendent.

Q. How about the Phoenix; do you know whether you bought some in 1907 from them?

A. We bought most of our beams and shapes from the Carnegie.

Q. You bought most of your beams and shapes from Carnegie?

A. From the Carnegie. I recall at one time we got some of both materials from the Phoenix.

Q. What percentage of your beams and shapes have you bought from the Carnegie since 1907?

A. This is only a guess; I can give you all this from our records. I would say at least 70 per cent.

Q. What contracts did you make with Carnegie in beams in 1913; that is, this year?

A. What contracts have we made?

Q. Yes.

A. We do not make any contracts. As we want them we ask for a quotation, and if they are the lowest bidder we give it to them. I do not know as we bought any to speak of this year.

Q. Take 1912; how many orders have you given Carnegie?

A. I don't know; I could not say.

Q. Can you tell anything about the tonnage that you bought?

A. Not now; I can not tell just how much tonnage we bought.

Q. Can you approximate the tonnage you bought from Carnegie during 1912?

A. No; it would be only simple guesswork, because we buy a lot of our T bolts and so forth, and keep them in stock. As I told you, we have 200 tons of material in stock, or 150 tons; that is kept in stock just because it is so hard to get it on short notice.

Q. Of special quality?

A. Not special quality. Just the same as we buy from Carnegie or anybody else, but we have it there so that we can use it. If we need a piece of bilge keel, if we have to wait a week for that, the ship can not afford to wait, and our stock might do us for a whole year; and again, if we get busy on that particular work we might have to replenish it twice a year.

Q. And you remember you bought about 70 per cent. of your beams and shapes from Carnegie?

A. Seventy per cent. of what we bought, from Carnegie.

Q. What quantities do you use of these things?

A. I could not say; I can only answer that by an order we will be placing shortly, say about 100 tons.

Q. Can you give me the base price that you pay Carnegie?

A. No, not now.

Q. Can you give me any base prices?

A. No.

Q. Can you give me any base prices that you paid any of these different companies?

A. Not now, not from here.

Q. Do you know whether you bought from any one else besides Carnegie during 1912?

A. I do not know. I would say that we did buy some.

Q. But you do not have any recollection of the parties from whom you bought, if you did buy?

A. If we did, it would possibly be from either of those three companies, which are the companies that we get the stuff from abroad.

REDIRECT EXAMINATION

By Mr. Reed:

Q. How long have you been importing material?

A. About two or three years.

Q. You still import a little, do you?

A. Yes.

BERNARD E. POLLAK

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live?

A. Cincinnati, Ohio.

Q. What is your age?

A. Thirty-three.

Q. What is your business?

A. Axle and forging manufacturer.

Q. With what concern are you connected?

A. The Pollak Steel Company.

Q. What is your relation to that?

A. Treasurer and general manager.

Q. Are you vice-president also?

A. No, sir.

Q. Is that a family affair?

A. Yes.

Q. Is your father living?

A. Yes.

Q. Is he connected with it?

A. He is the president of the company.

Q. When was the business started?

A. The Pollak Steel Company took over the plant of the Block-Pollak Iron Company in 1911. Prior to that I should say the Block-Pollak Iron Company had that plant for about thirty years, or were in the business for thirty years. The new plant was built in 1896.

Q. How long have you been connected with the company?

A. Since 1900.

Q. How long have you been general manager?

A. Since the Pollak Steel Company was formed.

Q. General manager and what else? What did you say your other office or title is?

A. Treasurer.

Q. Treasurer and general manager?

A. Yes.

Q. How many men do you employ?

A. About 400, I should judge.

Q. What do you buy in the way of raw material?

A. Steel billets.

Q. How much do you use in tonnage?

A. Depending upon business conditions. If conditions are good, we will use 50,000 to 60,000 tons a year.

Q. Has your business grown any since your present corporation was formed?

A. Oh, very much.

Q. How large is it now, as compared with what it was then?

A. That would be hard to give, a percentage statement; but we have had quite an increase of business since 1911.

Q. I forgot, for the moment, that it was 1911; but since the time that you have been connected with the business, has the business grown?

A. Oh, very much.

Q. Say, during the last ten years?

A. Conservatively, 50 per cent.

Q. You have been general manager for about ten years?

A. I was formerly general manager of the Block-Pollak Iron Company.

Q. I mean, of the business?

A. Yes, sir.

Q. The change was only in name, I take it, from what you said?

A. That is all, yes

Q. From whom have you bought your billets during the last ten years?

A. From the Andrews Steel Company; the Tennessee Coal, Iron & Railroad Company; Jones & Laughlin; Lackawanna Steel Company; Inland Steel Company; Southern Iron & Steel Company; New York State Steel Company; Portsmouth Steel Company; and various others, in smaller quantities.

Q. You named the Carnegie, did you?

A. The Carnegie Steel Company and the Illinois Steel Company.

Q. Did you name the Tennessee Coal, Iron & Railroad Company?

A. Yes, sir.

Q. Did you mention the Lackawanna?

A. Yes, sir.

Q. Did you mention the La Belle?

A. No; also the La Belle Iron Works.

Q. You did not mention the American Rolling Mill Company, did you? Did you buy from them?

A. The American Rolling Mill, Middletown, yes.

Q. The Pennsylvania Steel Company?

A. Yes.

Q. You bought from them?

A. Yes.

Q. Were you accustomed to buy on contracts for future delivery, or from time to time for immediate requirements?

A. For future delivery.

Q. That is your practice?

A. That is our practice.

Q. Is it invariable, or do you sometimes buy for immediate requirements?

A. Sometimes for immediate requirements; depending on market conditions.

Q. Do you, before making your periodic contracts, obtain quotations from the manufacturers?

A. Always.

Q. From how many of them, ordinarily?

A. Ordinarily from at least six or seven.

Q. And I presume that that six or seven is within the list you have just given us?

A. Yes, sir.

Q. Always from the same six or seven?

A. No.

Q. But about that number?

A. Just enough to enable us to feel that we have bought as well as we could buy.

Q. Are your quotations always obtained from the same six or seven, or do you vary more or less?

A. We vary.

Q. When the quotations come in are they uniform or variant, as a rule?

A. They are always variant.

Q. Is that true of the whole ten years?

A. Yes.

Q. Have all the bidders quoted prices differing from all the rest, or have there sometimes been two or more that agreed in price?

A. I usually pay attention to the lowest price that we have, and there will be quite a variance between the lowest price and the highest price; sometimes as much as several dollars a ton.

Q. And between the two would there be more or less variation?

A. Oh, very much.

Q. Always?

A. Always.

Q. Has there been any year during the period of ten years

when there was not a variation of the kind and to the extent you have mentioned?

A. No, sir.

Q. In the quotations on billets?

A. No, sir.

Q. Has the competition for the sale of billets by the manufacturers been vigorous or otherwise?

A. In normal times it is very vigorous. It all depends upon mill conditions. When some mills are filled up they are not so anxious for business, but in times such as we are having now it is quite a hard job to keep their representatives out of the office.

Q. What are the times when it is not vigorous? You say in normal times and such times as the present it is vigorous. Is it in boom times when it is not so vigorous?

A. Yes; when they are filled up and cannot take care of you; it is rather a hard proposition to buy your steel, to buy it right.

Q. You have to do the running, then, I suppose?

A. We do.

Q. From whom have you made your principal purchases during the last five years; that is, from whom have you purchased the largest percentage of your requirements?

A. During the last five years from the Tennessee Coal, Iron & Railroad Company.

Q. About what percentage of your requirements have you bought from that company during the period just mentioned?

A. I should judge from 40 to 50 per cent. I would not say absolutely the percentage, but roughly, I would say that is about it.

Q. Have you bought that on a competitive basis?

A. Always.

Q. And the competition was with whom?

A. With the Andrews Steel Company; the Inland; the New York State Steel; the Southern Iron & Steel Company; and the Portsmouth Steel Company.

Q. Any others?

A. The Carnegie Steel Company.

Q. Middletown Mill?

A. The American Rolling Mill, Middletown.

Q. Did you ever have a contract for all of your supplies from any one of these manufacturers?

A. We had a contract, I think it was 1905, 1906 and 1907, with the Carnegie Steel Company for—— I think it was a three-year contract on a sliding scale basis. We had the right to take up to a maximum of 4,000 tons a month.

Q. Just think a moment as to what years that covered and see whether or not——

A. (Interposing) It was either 1904, 5 and 6 or 1905, 1906 and 1907.

Q. Wasn't it 1903, 1904 and 1905?

A. No.

Q. Well, 1904, 1905, and 1906 or 1905, 1906 and 1907?

A. Yes.

Q. Did you purchase any during that period outside?

A. Yes.

Q. How did that happen?

A. Well, during the period of 1906, when business was abnormally good, the Carnegie Steel Company could not make the deliveries and could not give us steel fast enough, and we had the right to go out and purchase in the open market, which we did.

Q. Did you have a right under your contract to purchase elsewhere in case you had lower offers for billets, and the Carnegie Company did not choose to meet it?

A. Yes, sir.

Q. Did instances of that occur?

A. Yes, sir.

Q. During the running of that contract?

A. Yes, sir.

Q. Frequently?

A. Yes, sir.

Q. And did the Carnegie Company sometimes meet the quotations?

A. Sometimes they did, and sometimes they did not.

Q. And when they did not what did you do?

A. We bought outside.

Q. Was that contract renewed upon its expiration?

A. No.

Q. From how many different concerns, do you think, in number you have made purchases since the Carnegie contract ran out?

A. From practically the same list that we purchased from before we had the contract.

Q. Have you purchased a greater amount outside than you did before?

A. I do not quite understand you.

Q. Have you purchased a greater amount from other manufacturers than the Carnegie Company than you did during the running of that contract?

A. Oh, we have bought more from the Tennessee Coal, Iron & Railroad Company since.

MR. DICKINSON: What period was that?

MR. LINDABURY: Since the running out of the Carnegie contract, which was in 1906 or 1907, he is not sure which.

THE WITNESS: I think 1905, 1906 and 1907 was the running of the contract.

By MR. LINDABURY:

Q. Did it run out before the panic year; maybe you can fix it by that?

A. No, it ran out December 31st, 1907. That was during the panic.

Q. You remember it had not run out yet when the panic started?

A. No.

Q. Had you bought from the Tennessee Coal, Iron & Railroad Company before that?

A. Yes, sir.

Q. How long?

A. We have been buying from the Tennessee Coal, Iron & Railroad Company since back in the nineties.

Q. Were your purchases before 1907 as great as they were afterwards?

A. You mean the percentage?

Q. Yes.

A. We practically bought the same prior to 1907 in percentage from the Tennessee Coal, Iron & Railroad Company before 1907 as we did after 1907.

Q. And have your purchases from them also been on a competitive basis?

A. Always.

Q. All the time?

A. Yes, sir.

Q. You did not mention Milliken Brothers; did you buy from them?

A. Yes, sir.

Q. When?

A. It was about a year before they went into the hands of a receiver. I think it was about 1906 or 1907, around there.

Q. And you bought billets from them?

A. Yes; I think I bought 5,000 tons from them.

Q. Shipped from where?

A. From Staten Island.

Q. And that in competition with these other manufacturers?

A. Yes, sir.

Q. Was that the reason you bought from them; was there any other reason for your buying from them except that you got a better price?

A. No; their product was the same. We have our specifications. They have got to live up to that.

Q. That is what I wanted to know, whether it was on a purely competitive basis as to price.

A. Yes, we gave our specifications that they bid on, and they have got to furnish steel according to the specifications.

Q. The specifications are alike to all competitors?

A. Yes, sir.

Q. And you take the lowest bid?

A. We take the lowest bid.

Q. I suppose you do not offer specifications to any one whose product you are not satisfied to take?

A. We do not ask them to bid.

Q. So that if you invite them to bid so far as quality is concerned they are on an even basis?

A. Yes.

Q. Do you remember how you happened to invite Milliken to compete on that order?

A. Why, I think Mr. Milliken happened to be out in Cincinnati and asked me if we were in the market for some steel and I told him yes, and asked him what his price was, and he made me a price that was 'way under the market and I immediately bought from him.

Q. Speaking of those competitive bids and of the wide range between the highest and the lowest, did it very often happen that the same concern was the lowest two times in succession?

A. Yes; that has happened.

Q. Was it the rule? I mean did that occur generally or was there as a rule a breaking up in that respect of relations between the bidders?

A. Oh, it was not general at all.

Q. Sometimes one would be lowest, and then another time another would be?

A. Yes, sir.

Q. Now, as to the highest, would the same obtain there, that one would sometimes be highest, and another time another would be highest?

A. Yes, sir; mill conditions governed that.

Q. Never mind what governed it; was it so?

A. Yes, sir.

Q. That you could never count on one concern being generally highest, or another concern being generally lowest?

A. No, sir; sometimes the one which was high before may be low next time. You cannot tell anything about it.

Q. The one that was high at one time would be low at another time, would it?

A. Yes, sir.

Q. Did you get quotations from the Illinois, did you say, sometimes?

A. Yes, sir.

Q. And Tennessee?

A. Yes, sir.

Q. And Carnegie?

A. Yes, sir.

Q. And would they be in agreement or would they be different also?

A. They would be different.

Q. Do you know how that happened; that is, whether their mill conditions were different?

A. I presume one mill had more work than another and simply did not want the business as badly as another mill did.

Q. So that different mills would quote?

A. Yes, sir.

Q. Do you buy on a base price, or how?

A. We buy delivered to our plant.

Q. And you require quotations accordingly?

A. Accordingly, delivered to the plant.

Q. You are not concerned with Pittsburgh or Chicago or New York prices?

A. No.

Q. It is the price that you have to pay?

A. The price I want is f. o. b. Cincinnati.

Q. All your quotations were, therefore, based on that?

A. Yes, sir.

Q. Where is your market; to whom do you sell?

A. We sell in the St. Louis district, Chicago district, Detroit; the South.

Q. What class of trade?

A. Steam railroads, street railway lines, car builders, locomotive builders; and we do a large forging business, heavy forgings for shipbuilders and machine builders, and we do a lot of business for the Government on gun forgings and battleship forgings.

Q. Is there competition in your line?

A. Very keen.

Q. How long has that existed?

A. Since I can remember.

Q. How many concerns are there engaged in the business?

A. Which business, the forging or the axle business?

Q. Separate them.

A. In the axle business there are the Carnegie Steel Company, the Cambria, the Standard Forging Company of Chicago, Willard Sons and Bell Company, J. R. Johnson Company, of Richmond, Virginia, and ourselves. They are about the principal people.

Q. Have any of the concerns you have named refused to sell you steel for making axles because you were in competition with them?

A. No.

Q. Or have they troubled you about deliveries on that account?

A. No.

Q. Not any of them?

A. None of them.

Q. What about the gun forgings? Was that what you were going to speak of next?

A. Yes, machines for engine builders and machine tool builders and ship builders. That is very keen competition. The principal people in that are the Bethlehem Steel Company, the Midvale Steel Company—they are the largest. And the Pennsylvania Steel Company, we have bought steel from them, and competed with them in selling forgings.

Q. Have you found that the necessity of acquiring your steel from those concerns has interfered in any way—I mean, have you found that the fact that you were competing with those concerns has interfered in any way with the getting of your steel from them?

A. No.

Q. Do you observe the trade paper quotations?

A. To a certain degree.

Q. How do the prices quoted to you by these different concerns compare ordinarily with the trade paper quotations?

A. With a weak market they are very much under it.

Q. How about a strong market?

A. They are never the same as the trade paper quotations. They will vary.

Q. Which are under in a weak market; the prices quoted to you or the Iron Age prices?

A. The prices quoted to us.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. COLTON:

Q. Your specification calls for sulphur .04 and under, does it not?

A. Yes.

Q. And for phosphorus .04 and under?

A. Yes.

Q. The standard specifications call for .05 and over in each of those, do they not?

A. Not over.

Q. .05?

A. Not to exceed .05.

Q. And you have called for not to exceed .04?

A. Yes.

Q. Then you are one point under the standard specifications on billets of this class?

A. Yes.

Q. And you have found in your business that with this class of product it is worth while for you to send some one to the mill that is going to make up your product, so that they shall make it to suit your special specifications?

A. If we start with a new mill; the first time that we do business with them.

Q. To what extent did you read the Iron Age during the year 1908 and compare the quotations in your special product with the quotations that you were getting from the mills?

A. I do not quite understand your meaning.

(The question was repeated by the stenographer.)

THE WITNESS: What do you mean by "to what extent"?

By MR. COLTON:

Q. Did you read the Iron Age in 1908?

A. Naturally, yes.

Q. Did you read their quotations on your special specifications?

A. On forging billets, yes.

Q. And that was for your specifications?

A. Yes.

Q. They furnish also quotations on billets in general, do they not?

A. Yes.

Q. And that is a different set of prices, on billets in general?

A. Yes.

Q. Do they quote prices on your special character of billets?

A. Forging billets would cover that.

Q. Forging billets would cover your specifications?

A. Yes; the only difference we make is that we have a point lower in phosphorus and sulphur that all of the mills understand that we purchase from. There is no difference in prices to have a point lower in phosphorus and sulphur.

Q. And you are a point lower than the specifications on forging billets?

A. Yes.

Q. Don't you know that at times mills have charged more when the specifications called for not to exceed such and such per cent. for phosphorus and sulphur?

A. Charge more than what?

Q. More than they would when they were unlimited as to the amount? You do not know that?

A. No, we never buy that way.

Q. You have always bought, in your business, not to exceed .04 in sulphur and phosphorus?

A. That is right.

Q. During the period of 1900 to 1907 you bought in the neighborhood of 40 to 50 per cent. from the Tennessee Coal, Iron & Railroad Company?

A. Yes.

Q. And during that same period you were buying at times from the Carnegie?

A. Yes.

Q. And at times from the Inland Steel Company?

A. Yes.

Q. Where is that located?

A. Indiana Harbor, Indiana; just out of Chicago.

Q. And some from the Illinois Company?

A. Yes.

Q. That is located at Chicago?

A. South Chicago.

Q. And some steel from the New York State Steel Company, located at Buffalo, New York?

A. Buffalo, New York.

Q. Now in the hands of a receiver?

A. Yes.

Q. I believe you mentioned the Carnegie, Illinois, Inland and New York State Steel?

A. Yes.

Q. And the Tennessee Coal, Iron & Railroad Company?

A. Yes.

Q. All of those companies competed for your business during that period of time, did they?

A. Yes; and the Southern Steel Company.

Q. In billets of the character that you have been talking about?

A. Yes.

Q. Now, during the period when you had what you call an exclusive contract with Carnegie for those three years—was it?

A. Yes, three years.

Q. Did you, during that period, buy at times from the Tennessee Coal, Iron & Railroad Company?

A. No, not in 1905, 1906 and 1907, no.

Q. Do you recollect that you did not buy from them at all during those three years?

A. Yes.

Q. But you had been buying up to the time that you made that contract with Carnegie, from them?

A. We did at times, yes, the same as we do now.

Q. And in large quantities, from 40 to 50 per cent. of your requirements from them, did you not?

A. Yes.

Q. You spoke of having gotten varying quotations from

the Carnegie Company, the Illinois Company, and the Tennessee Coal, Iron & Railroad Company, since the Tennessee Coal, Iron & Railroad Company was acquired by the United States Steel Corporation?

A. Since 1907.

Q. To what company have you, so far as you have purchased from the United States Steel Corporation, given your purchases since the Tennessee Company was acquired by the United States Steel Corporation?

A. We have given some to the Illinois Steel Company and about the same percentage to the Tennessee Coal, Iron & Railroad Company that we did before they took it over.

Q. Do you know whether the price of those companies, if you reduce their quotations to f. o. b. Pittsburgh, would be the same or not as between those three companies?

A. No, sir; they would not. There is quite a difference.

Q. What is the last contract you made with the Tennessee Coal, Iron & Railroad Company?

A. You mean recently?

Q. Yes.

A. Last week.

Q. How much steel did you contract for from them last week?

A. I bought 4,000 tons from them last week.

Q. What was the next contract prior to that?

A. The next contract prior to that was for 15,000 tons.

Q. When was that made?

A. In February or March; I am not quite certain.

Q. Of this year?

A. Yes.

Q. When did you last make a contract with the Carnegie Steel Company?

A. Some time during 1913, with the Illinois Steel Company. I do not think we got very much from Carnegie this year.

Q. I am now asking about Carnegie. Did you get any from Carnegie this year?

A. In very small quantities; probably a carload here and there.

Q. How much did you get from the Illinois Company during this year?

A. I should judge somewhere around 500 or 1,000 tons.

Q. And were the Illinois Steel Company and the Tennessee Coal, Iron & Railroad Company making deliveries at the same time on steel purchased by you?

A. Yes, sir.

Q. Take 1912: What contracts did you have with the Tennessee Coal, Iron & Railroad Company?

A. I could not tell you each separate contract, but I should judge about 30,000 tons.

Q. You bought about 30,000 tons from the Tennessee Coal, Iron & Railroad Company; how much from Carnegie?

A. I could not tell you the tonnage.

Q. And how much from the Illinois Steel Company?

A. I could not tell you in definite tonnage. We bought all around, from everybody.

Q. How does the tonnage that you bought from the Carnegie and the Illinois Companies compare with the tonnage that you bought from the Tennessee Coal, Iron & Railroad Company?

A. About the same as in 1913.

Q. Then by far the largest proportion was bought from the Tennessee Coal, Iron & Railroad Company?

A. Yes, sir.

MR. LINDABURY: What do you mean? I do not understand. Does he mean, or do you understand him to mean, that he bought the largest percentage from them that he bought from anybody, or——

MR. COLTON: From the Corporation's mills. That is what I was speaking of at that time.

MR. LINDABURY: Oh, yes.

MR. COLTON: As compared with the Carnegie.

MR. LINDABURY: Yes.

By MR. COLTON:

Q. Is that true of each year since the Tennessee Coal, Iron & Railroad Company was acquired by the United States Steel Corporation?

A. Yes.

Q. But prior to that time you were purchasing a much larger proportion, for three years, at least, a much larger proportion of your requirements from the Carnegie Company than you were from the Tennessee Coal, Iron & Railroad Company? Is not that right?

A. From 1900 to 1905 we purchased the larger percentage from the Tennessee Coal, Iron & Railroad Company.

Q. And then the Carnegie came in with its contract——

A. Which cut them out.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Has the product of the Tennessee Coal, Iron & Railroad Company changed since 1907 in quality?

A. Oh, very much better steel; they make very much better steel since 1907 than they did before 1907.

Q. How do the deliveries or performances of contracts compare with the old deliveries or performances?

A. We get very much better deliveries.

Q. You spoke of one or two contracts made in 1912 and 1913. Had you also other contracts with other manufacturers, or were those all you had?

A. Oh, yes; we had others.

Q. Various contracts?

A. Yes; with different mills; ranging in tonnage from 1,000 tons to 10,000 tons.

(Whereupon an adjournment was taken until to-morrow, Wednesday, November 26, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND NINETEENTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Wednesday, November 26, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. BOLLING and MR. REED.

WILLIAM HEYBURN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. Louisville, Kentucky.

Q. What is your age?

A. Fifty-two years old last August.

Q. In what business are you engaged?

A. In the wholesale hardware and manufacturing business.

Q. Is that business incorporated?

A. Yes.

Q. What is the name of the corporation?

A. The Belknap Hardware & Manufacturing Company.

Q. Has it warehouses?

A. Yes; a number of warehouses.

Q. What is the principal place of business of the company, Louisville?

A. Oh, I misunderstood you; all at Louisville.

Q. You mean the warehouses are all at Louisville?

A. Yes.

Q. You mean you have a number of warehouses, all at Louisville.

A. Yes.

Q. What is your relation to the corporation?

A. I am president of the company.

Q. How does your concern compare in size with other jobbing houses in similar lines in the United States?

A. I think it is one of the three or four largest houses in the country.

Q. What are some of the other largest houses?

A. The Simmons Hardware Company.

Q. That is at St. Louis?

A. At St. Louis, with branches; Hibbard, Spencer, Bartlett & Company, of Chicago, with no branches; Marshall-Wells Hardware Company, of Duluth, with branches.

Q. Is the Bourne-Fuller Company a large concern also? That is up at Cleveland.

A. Yes; in somewhat different lines.

Q. Do you handle steel products?

A. Yes.

Q. What of them do you handle?

A. Steel bars, some structurals, small structurals, such as angles and channels, sheets, roofing, plates, pipe, tin plate and wire products of many kinds.

Q. Do you handle hoops and bands?

A. Yes.

Q. Do you handle mining and railroad supplies?

A. Yes; track, light rails.

Q. Do you make your purchases from the same concern always?

A. No.

Q. Do you buy from different ones?

A. Yes.

Q. I think you did not tell me how long you have been president of the Belknap Company.

A. Since 1910.

Q. Were you associated with it before that?

A. Since 1886.

Q. In what capacity before you became president?

A. As vice president, and for many years as managing buyer and active buyer, all the time previous.

Q. Have you assistants in your buying?

A. I have now a managing buyer and eight assistant buyers, eight department buyers.

Q. When were you managing buyer?

A. Up to the time I became president, in 1910.

Q. And how long did you hold that position?

A. Since 1886.

Q. Do you buy on a competitive basis, ordinarily?

A. Yes.

Q. You do not manufacture anything, I take it?

A. Yes, we have a saddlery factory where we work about 100 men, and a shop where we do some special work in pipe cutting and special blacksmith work, forging work.

Q. Generally, I take it, you sell in the same condition in which you buy?

A. Yes.

Q. What quantity of rods do you ordinarily buy a year?

A. No rods.

Q. Bars, I should have said.

A. I could refer to my memorandum and give you that if you care to have it.

Q. I only want an approximation.

A. Two to three thousand tons a year.

Q. Of bars?

A. Bars.

Q. How long have you been buying two or three thousand tons a year? I suppose you speak as of the present day, do you not?

A. Yes.

Q. How long have you bought that amount?

A. I would say that we have bought that many bars, either iron or steel, for fifty or sixty years, fifty years anyway.

Mr. Dickinson: Now, excuse me; you were not there fifty years ago?

The Witness: No, I was not.

Mr. Lindabury: That seems to be an interjected cross

examination. I was about to ask him whether his memory went back that far.

MR. DICKINSON: If you would ask him that that would suit me.

MR. LINDABURY: That is just what I was going to ask him.

THE WITNESS: I could testify to twenty-seven years.

By MR. LINDABURY:

Q. Your memory, then, as to the quantity of bars you handle runs back about twenty-seven years?

A. Yes.

Q. And it has not varied very much from what you say?

A. No; it is not a part of our business that we are pushing or that is growing.

Q. It has remained rather steady?

A. Yes.

Q. What quantity of wire products do you handle?

A. Fifteen to twenty thousand tons a year.

Q. What quantity of plates?

A. The plates is a small business with us; our purchases of that sort of material run more into what you would call sheets and roofing.

Q. Then, sheets and roofing, which are thin plates, I suppose; tell us how much you handle of sheets and roofing.

A. Four to five thousand tons a year.

Q. How long have your purchases of sheets or that material been the same as now in quantity? Has there been an increase or decrease?

A. That has been increasing somewhat from year to year.

Q. How much do you think it amounted to ten years ago as compared with the present time?

A. I think about 1,500 tons.

Q. What was the amount of your purchases of wire products ten years ago?

A. Ten years ago? Ten to twelve thousand tons, I should think, as near as I can recall.

Q. So there has been a growth from that up to about 15,000 in that time?

A. Yes; 15,000 to 18 or 20,000.

Q. Where, during the period of ten or twelve years, have you been purchasing your bars?

A. Up to a few years ago we used mostly iron bars which we bought from local iron rolling mills at Knoxville, at Muncie, Indiana; at Newport, Kentucky, and so on.

Q. How long have you been purchasing steel bars?

A. We have been purchasing steel bars for 15 years, I should say, but the bulk of the business was iron bars up to about five years ago, when we found the iron bar less reliable than it had been, and changed, practically, all of our business to steel.

Q. Where have you bought your steel bars during the ten years, and particularly the last five years, when you have been buying almost altogether steel bars?

A. We have bought steel bars from the Carnegie Steel Company, the Cambria Steel Company and the Republic Iron & Steel Company, principally, the last few years.

MR. DICKINSON: How many years?

THE WITNESS: The last five years.

By MR. LINDABURY:

Q. Can you give us about the percentage of your purchases from each?

A. I can give you the percentage during this current year to date.

Q. Let us have that.

A. Seventy-eight per cent. from the Carnegie Steel Company; 22 per cent. from Cambria and Republic.

Q. About how was it in 1912? Have you the figures?

A. I have not the figures for 1912 on that.

Q. Can you recall about what the proportions were in 1912?

A. I think in 1912 they were principally Carnegie Steel Company.

Q. 1911?

A. I can not recall.

Q. Take the period of five years; do the figures you have given for this year fairly represent the proportions for the

whole five years, or would the general average vary from this year's figures?

A. I think the figures would be fairly representative.

Q. Of the whole period?

A. Yes.

Q. Now, as to sheets and roofing material; where have you bought them?

A. During the present current year, up to November 1st, say, 46 2/3 per cent. from the American Sheet & Tin Plate Company; 53 1/3 per cent. from other makers.

Q. Will you give the other makers, the names of them?

A. Portsmouth Steel Company; Newport Rolling Mill Company; Fannin & McCullough Sheet Mill Company.

Q. Have you the figures for 1912 on sheets?

A. American Sheet & Tin Plate Company, 3,000 tons; Newport Rolling Mill Company, 1,240 tons; Portsmouth Steel Company, 143 tons; Jobe Iron & Steel Company, 32 tons; Edwards Manufacturing Company, 53 tons.

Q. Have you the percentage calculated before you?

A. A little over 50 per cent. from the American Sheet & Tin Plate Company, and a correspondingly less per cent. than 50 from the others, slightly under 50 for the others.

Q. Where are Fannin & McCullough located?

A. They are at Ashland, Kentucky, I think, their mills.

Q. Did you buy anything but sheets and roofing material from them?

A. Practically all roofing material.

Q. You have never been at their place of business?

A. I never have.

Q. Do you know whether they offer anything besides roofing material?

A. No, I do not.

Q. Have you the figures for any prior year on sheets and roofing material?

A. No, I have not.

Q. What is your recollection as to where you made purchases during the earlier years?

A. I think the purchases of the American Sheet & Tin

Plate Company previous to 1912 were relatively somewhat larger, but not very much.

Q. What would be the average, as near as you can estimate it, for the last five years? I mean the average per cent. of your purchases from the American Sheet & Tin Plate Company?

A. I think it would run 60 to 65 per cent. from the Sheet & Tin Plate Company.

MR. DICKINSON: Does that mean in sheets and roofing, or just sheets?

THE WITNESS: That is sheets and roofing.

By MR. LINDABURY:

Q. Did you usually purchase them together?

A. Yes; usually.

Q. The roofing material is a form of sheets?

A. What we call corrugated and V-crimped roofing, and that general prepared form of steel roofing is simply a development of the flat sheet.

Q. Where did you buy your structural shapes, and have your purchases of shapes been large?

A. Our purchases have not been large, and I should say that they have been bought mostly from the Carnegie Steel Company and the Cambria Steel Company.

Q. Where did you buy your hoops and bands?

A. That is not a very large item with us, but more often than not from the Carnegie Steel Company; sometimes part of the product from Cambria Steel Company.

Q. Now, with regard to bars: have your purchases of steel bars been made on a competitive basis?

A. Yes, they have.

Q. And how has that competition been carried on?

A. When we are in the market for bars, we notify the manufacturers and they either quote or send their salesmen; more often than not, send their salesmen.

Q. About how many do you notify, as a rule?

A. About three.

Q. Always the same three, or sometimes a different three?

A. It depends upon what we know about the condition of

those manufacturers as to their ability to furnish and give us the service; maybe generally about the same three, because of our experience with them.

Q. Which are those three that you usually notify, as a rule?

A. The Republic Iron & Steel Company; the Cambria Steel Company; the Carnegie Steel Company. We have figured with the Pennsylvania Steel Company; and we sometimes buy steel bars from the smaller mills who buy billets and roll them.

Q. Do you ever figure, as you call it, with Jones & Laughlin?

A. Yes; I neglected to mention them. They are a large factor in the business.

Q. Do you buy sometimes from them?

A. Not very often, because their prices are not very favorable.

Q. That is, the prices of the others you have found generally better, have you?

A. Yes; we have found them more competitive.

Q. And the Youngstown Sheet & Tube Company; do you ever buy from them?

A. We have not had much experience with them. Their production is distributed more in another direction.

Q. Have you found the quotations on bars made by these three and such other concerns as you have figured with, uniform or varying?

A. We have found them to vary.

Q. Have you found competition between them sharp on the sale of bars?

A. At times sharp, and at others, not.

Q. What would be the times when they were sharp?

A. When their order books need filling.

Q. In boom times, how has it been?

A. They are very independent then, all of them.

Q. How long has that been so?

A. It is not so at all just now.

Q. But I mean, for how many years has that characterized the trade? As long as you can remember?

A. Yes, practically all the time.

Q. I mean, boom times and dull times contrast, and always have contrasted, in the way you have mentioned?

A. Yes.

Q. Do the same people sometimes quote you different prices; that is, change their prices?

A. Oh, yes.

Q. How does that happen?

A. At times a mill makes us a price and does not get the business, and comes back to see what has become of it, and makes a lower price.

Q. Is that frequent or infrequent?

A. That is frequent, in all kinds of trading, and in the steel products as well as others.

Q. Do these salesmen follow you up pretty closely?

A. Yes, they do.

Q. Do you sometimes find two of them quoting the same price on a given offer?

A. Yes; that happens sometimes.

Q. But I understand you to say that the rule is the other way; that they vary?

A. Yes; I should say the rule is the other way.

Q. And has this practice of which you have spoken, quoting different prices and then coming back and quoting lower ones sometimes, when they find that another has been below them, gone on for the whole of the period of ten years last past?

A. Yes; I think it has gone on during that ten years about as it always has, in my recollection.

Q. You have seen more of it, of course, since you have been buying more largely steel bars? Did you buy the steel bars on a competitive basis when you were buying mostly iron bars? That is, did you buy what you did buy of steel bars on a competitive basis?

A. Yes.

Q. Now, as to sheets and roofing material: has what you have said with regard to the bar trade applied to the sheet and roofing trade?

A. Yes; practically.

Q. From about how many concerns have you invited quotations on sheets and roofing material?

A. I think it might be said of sheets that we consider a good many of the sheet manufacturers as not in our territory where they could reach us on a favorable basis, so that we do not negotiate with them at all. These mills that I have mentioned are about the ones that we consider worth figuring with for our territory.

Q. Which are they?

A. The Newport Rolling Mills, the American Sheet & Tin Plate Company, the Portsmouth Steel Company, the Fannin & McCullough Sheet Mill Company.

Q. Do you usually figure with them on your considerable purchases, with all of them, on sheets and roofing material?

A. Yes; we have quotations from them which give us an idea of how closely it is worth while to figure with them; and if their quotations are favorable, or their salesman is pliable, we get the best we can out of them. That is the commercial way of doing things.

Q. Do you find that in these ways they are quoting varying prices to you?

A. Yes.

Q. And are those of a competitive character?

A. Yes.

Q. Is the competition sharp in those products?

A. Very.

Q. How long has it been sharp?

A. Ever since I can recollect.

Q. For ten years at least?

A. Yes.

Q. And do the manufacturers change their bids on occasions for these products, as you have said that the others do for bars?

A. Yes.

Q. Is that frequent in this trade?

A. They change their bids sometimes in the hope of getting the business that we have inquired for prices on. After the prices are made, they sometimes come back and try again. Is that what you mean?

Q. Yes. And after the bidding is completed and the contract is awarded, I suppose they find out at least that they have not gotten it?

A. They know that, of course.

Q. Then do they come back?

A. Very often.

Q. I mean, with any new propositions?

A. Very often.

Q. Upon what basis or idea?

A. I suppose on the idea that if we could not use all of the product that they have bid on, we could use part of it; and we frequently do carry several contracts with manufacturers, so as to insure us a supply at slightly varying prices, but not enough to cut very much figure.

Q. Now, as to wire goods: where are you now buying your wire goods?

A. The wire product line is highly varied, and there are a great many subjects that have to be treated individually. We buy from the American Steel & Wire Company; from Wickwire Brothers, of Cortland, New York; from the Indiana Steel & Wire Company; from the Keystone Steel & Wire Company, of Peoria, Illinois; from Kokomo Steel & Wire Company, of Kokomo, Indiana; from Ludlow-Saylor Wire Company, of St. Louis. Those are the principal ones that I think of. They sometimes extend somewhat more widely than that.

Q. Have you found the same conditions to apply in the wire trade as in the bar and sheet trade?

A. Yes; there is a great deal of competition in wire products.

Q. Does that competition extend to prices?

A. Yes.

Q. And has that been so during the last ten years?

A. Yes, I should say so; when the mills are full there is not much competition; everyone can get the top price, or as large a price as anybody else.

Q. Is there the ordinary competition that obtains under similar conditions?

A. Yes.

Q. Have you observed any laxity or want of competition in any of those articles during the last ten years, except as competition is naturally affected by the boom conditions you have mentioned?

Mr. Dickinson: This is objected to as incompetent because it calls for the opinion and conclusion of the witness upon a state of facts that may exist in his own mind, or his apprehension of the non-existence of a state of facts which are not shown to the Court, and therefore are no basis of judging of the character of his opinion and its value.

(The question was repeated by the stenographer.)

The Witness: My answer to that would be that there has always been competition in the last ten years in the wire trade, for our business.

By Mr. Lindabury:

Q. My question was not confined to the wire trade, but I asked also in regard to the sheet and bar trade, that is, the trade in all the products you have mentioned made by the steel manufacturers.

A. I find that a very difficult question to answer because it covers such an immense field. I think there has been competition in the last ten years in these lines, practically all the time, but there have been times when every manufacturer could get the top price; there was no competition among the manufacturers; the competition was among the buyers to get the goods.

Q. Those were the boom periods you alluded to?

A. Yes.

Q. I excepted that in my question; perhaps you did not notice it.

A. Yes, I see the point.

Q. I said, except those times.

(At the request of the witness the question was again repeated.)

The Witness: I think what I have said would be the answer; I cannot elaborate on it.

By Mr. Lindabury:

Q. The boom times that you spoke of would be where the buyers have often paid premiums to the manufacturers, would they not?

A. Yes.

Q. In order to get the goods?

A. Frequently.

Q. My attention is called to the fact that I have not asked you about pipe. You said you bought pipe.

A. We buy pipe; it is an increasing business all the time, with the increasing use of pipe.

Q. Do you handle a considerable tonnage of pipe?

A. Our business in pipe is about 1,500 to 2,500 tons a year.

Q. And that has been growing?

A. Yes.

Q. Those figures are present figures?

A. That would be our present rate of distribution.

Q. Where do you get your pipe?

A. We are at present buying from the Republic Iron & Steel.

Q. And no one else?

A. At the present time no one else.

Q. From whom did you buy in 1912?

A. Republic Iron & Steel, and I think from the La Belle Steel Company.

Q. In 1911?

A. The Republic Iron & Steel principally.

Q. Back of that, for the balance of the period of ten years last past?

A. The La Belle Steel Company; they were our first connection on pipe, when we first put it in some years ago, and were for some years afterwards.

Q. About when did you put in pipe?

A. About—well, it is within ten years. About seven or eight years ago.

Mr. Dickinson: You mean by "put in" when you began to buy?

The Witness: Yes.

By Mr. Lindabury:

Q. Do you buy any from the National Tube Company?

A. No, we have not.

Q. Have you bought pipe on a competitive basis?

A. Yes.

Q. How does it come that you have not bought any from the National Tube Company?

A. They have not made us as favorable a price as the others.

Q. You have taken it up with them from time to time?

A. Many times.

Q. And sometimes you bought from the La Belle and sometimes from the Republic Iron & Steel?

A. Yes.

Q. According as one or the other quoted the better price?

A. Yes.

Q. Has that been the basis of your distribution?

A. Yes.

Mr. Lindabury: You may cross examine, Judge.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You became president in 1910?

A. Yes.

Q. You say this is a large business?

A. Yes, sir.

Q. In that line?

A. Yes, sir.

Q. You handle a great variety of products, do you not?

A. We do.

Q. It runs up into thousands of different kinds of items, does it not?

A. Yes; more than 100,000 items.

Q. Now, taking the entire volume of your business for a year, what would the percentage in money represented by these various products in regard to which you have testified be as to the whole of your yearly business; I do not mean, of course, for you to give it exactly, but approximately?

A. Approximately between ten and fifteen per cent.

Q. Since you became president what have been your duties in the business?

A. The usual duties of an executive.

Q. That involves, does it not, a general supervision of all the affairs of that company, its financial matters and all questions of policy, does it not?

A. Yes.

Q. You do not, as president, get down to actual handling of the details of the various departments?

A. I am consulted in regard to important buying contracts.

Q. That comes within the general direction of policy, does it not?

A. Yes.

Q. But you necessarily in a business of that character have it divided up into departments, and you have men who have been trained there and in whom you have confidence, both in their integrity and in their ability, and in a great many matters a very large discretion is necessarily entrusted to them, is it not?

A. Yes, sir.

Q. A business of that character could not be conducted successfully on any other basis, could it?

A. Absolutely not.

Q. What time in 1910 did you become president?

A. May 1st.

Q. After you assumed the duties of that office, I believe you stated that you had a general purchasing agent, did you not?

A. A managing buyer we call him, one of the vice-presidents.

Q. One of the vice-presidents?

A. Yes, sir.

Q. He holds a high office in that company?

A. Yes, sir.

Q. And that is regarded as a position of trust, is it not?

A. Yes, sir.

Q. And he has immediate charge of that, has he?

A. Yes.

Q. Hasn't he a very large discretion in that?

A. Yes, sir.

Q. He does not consult with you on all purchases, does he?

A. Not on all, no.

Q. And could you now from memory specify since May 1st, 1910, any particular contracts for the purchase and sale of products where you were consulted?

A. I keep a very close supervision over the business and am consulted by the various heads of departments, probably by the buying head sometimes as much as twenty times a day when important matters come up, matters affecting the policy of buying at that particular time or the place of buying or other matters of buying policy.

Q. And still there are a great many purchases made every day in steel products where they do not necessarily come to you, are there not?

A. Nearly all important matters of that sort, where a great deal of money is involved, as in this case, come to me at some stage of the game for advice.

Q. Take the year 1910. Do you know the amount of money that was involved in that year in the purchase of the character of products that you have testified to?

A. Just about, yes.

Q. Do you recall it as a matter of fact, or is it just a general impression?

A. It is very hard to say in your mind just what is a matter of fact. I think I know that it is between one million and twelve hundred thousand dollars in the year 1910.

Q. What was $1,000,000 or $1,200,000?

A. The amount of money involved in the purchase of these heavy products in certain departments.

Q. How many different transactions in 1910, after you became president, were involved?

A. Not so many transactions, because these transactions come up in the shape of contracts which, when once entered into, are simply specifications on account of contracts. A purchase is one transaction; the specifications then go in on the contracts.

Q. You say they come up in the shape of contracts?

A. Yes, sir.

Q. You mean they come before you in the shape of contracts?

A. Yes, sir.

Q. Just state exactly how that is, what the vice-president did, and then how it was brought before you and then what you would do if you remember any particular transaction that year?

A. I cannot testify that I remember any particular transaction; I can only testify as to the method of handling that kind of business.

Q. Now I am getting at your method; would he take bids or deal with the parties, then reach a certain point which seemed to him to be desirable, and then bring it before you——

A. Yes.

Q. Wait a minute. And then if you approved, it would be closed, and if you disapproved the matter would be taken up for further consideration?

A. That would be the natural method, yes.

Q. Now, at the time it would reach you there had already been negotiations on his part, had there not?

A. Generally, yes.

Q. And he had already, so far as you know, dealt with these parties and taken such steps with them as led to his recommendation of a particular purchase at a particular price; is that correct?

A. That is not the first time when I come in contact.

Q. How is that?

A. That is not the first time that I come in contact with the matter.

Q. Not always; is it frequently so?

A. Very frequently.

Q. Can you give us any idea of the relative frequency of these two in the year 1910?

A. I made the contracts that ran through the first half of 1910 myself in this department.

Q. I am only speaking now of these contracts that were

made after May 1st when you took the office of president with the general supervising duties that were incident to that office in conducting a large business of this character with all its multifarious ramifications.

A. I could not testify as to the details at this distance.

Q. Could you testify after you took the office of president in respect to any of these particular purchases or the solicitation or the steps that led up to these particular purchases, what the various bids of those who solicited were and how they varied; do you recall that?

A. Not in detail.

Q. That frequently was disposed of in a number of these cases by the vice-president, and it reached you in the form of a recommendation of a particular contract, did it not?

A. With quotations and facts before me, yes.

Q. What quotations?

A. Quotations from manufacturers, prices that could be had in different quarters, and at that stage it would come to me for final decision.

Q. But suppose the vice president, in negotiating with these parties and soliciting and getting quotations, had himself found that one was lower than the others, and from a reliable party that could supply what you wanted, what occasion would there be for your addressing your attention to higher quotations?

A. The question whether it was low enough would come to me.

Q. Then you were dealing with that particular quotation, whether it was low enough, and not with the quotations that he may have passed on, were you?

A. We were dealing with the whole transaction, Judge. When the market is figured by a buyer he has at the end of that figuring the different prices and propositions of manufacturers, that they have to make. Now, in merchandising, you want to get at the bottom of the market——

Q. I understand——

MR. LINDABURY: Hold on. Let him finish.

THE WITNESS: Now, after you get all those figures before

you as a merchant, the question is whether you will accept the lowest price sometimes, whether that will place you in a favorable position in the market. You may conclude to offer the manufacturer a lower price than anyone has offered you because the market may be tending downward. The buyer and the seller make the market together, not the seller.

By Mr. Dickinson:

Q. Are you through?

A. Yes, sir.

Q. After he had canvassed the quotations that may have varied, and had from them taken the lowest price and submitted to you what the price was, did you put out of consideration whether you would buy at that price, or attempt to get a lower price? Had that any relevancy to these rejected bids which were put out of consideration by him because they were higher?

Mr. Lindabury: I object to that question. The witness has not said that any bids were rejected before they were submitted to him, or that they were put out of consideration before the record came to him.

The Witness: The bids are not rejected up to the time they come to me, if it is a matter that comes to me.

By Mr. Dickinson:

Q. Can you give for a single transaction on any of these articles, from May 1, 1910, to December 31, 1910, the names of bidders and the prices that they bid on any purchase that you made?

A. Now?

Q. Yes.

A. No.

Q. Can you give any approximation of it now, and say that you remember it?

A. I can say that I remember a great many times being consulted in this matter by the managing buyer, and by the buyers direct, who all have access to me, as to what they should do in the way of placing contracts, or sometimes individual orders.

Q. And were there not a great many times when purchases

were made of the character of products we have been discussing here, when the vice-president did not lay it before you, during that year?

A. Doubtless.

Q. You can not give the proportion of the two?

A. I can say that they were not a very large proportion. It would be when I might be away, or something of that sort.

Q. But at all times when you were there did this vice-president, who is your managing buyer, submit to you every purchase before consummating it, of the kind of products that have been testified to by you here in your evidence?

A. Practically all important transactions in that department would come to me.

Q. What would you call an important transaction?

A. Contracts, principally; the placing of contracts, or the making of contracts.

Q. No matter what the extent of the purchase covered by it?

A. We would not make a contract unless it was of considerable importance.

Q. You mean written contracts?

A. Written contracts.

Q. What proportion of your purchases from May 1, 1910, to December 31, 1910, were covered by written contracts? I mean in this kind of products about which you have testified.

A. About 90 per cent., I should suppose; somewhere between 90 and 95 per cent.

Q. Can you give the name of any person with whom you contracted, and the price that you paid under that contract, and the bids that were made by others who you say competed for that particular purchase?

A. I think so.

Q. Just give one now, and state who the bidders were, and what they bid.

A. The poultry netting contract is one of the most recent that have come up.

Q. You understand I am speaking of 1910?

A. Oh, 1910? I thought you meant recently, since 1910.

Q. No, I said from May 1, 1910, to December 31, 1910.

A. No, I can not remember that far back as to details.

Q. How about 1911?

A. I could not tell you about 1911.

Q. How about 1912?

A. I can not recall as to any details of 1912.

Q. Is it not a fact that taking the period of the last ten years, it frequently occurred that when bids were made to you on steel bars by those from whom you solicited a bid, that the first bid would be the same?

A. That they would all be the same, do you say?

Q. Yes.

A. No, it is not true.

Q. Do you remember, as a matter of fact, that that is so?

A. I do.

Q. Don't you know that throughout long periods during the last ten years, in the quotations of manufacturers of steel to you, that frequently the prices were the same that were quoted to you, on the first quotation?

A. The same bid of all the manufacturers?

Q. I understood you to say that you never got more than four or five?

A. I am speaking of the four or five, whoever they were, as all.

Q. Yes.

A. It is not true that all the manufacturers have quoted the same prices.

Q. Can you recall now, and state from memory, that there were not periods during the last ten years when all the quotations on some character of these products on which you solicited quotations were the same by those from whom you solicited bids?

A. There have been periods when they have been the same, yes.

Q. Have there not been periods where for weeks or months at a time the market price and the first quoted price would be the same?

A. What do you mean by "the first quoted price"?

Q. I will explain what I mean by that; I understand from

what you have testified, and if I am wrong you may set me right, that you would pick out from three to five—correct me in any particular, will you?—and ask for quotations on a particular purchase that you contemplated making; that you would get prices, either from salesmen or in answer to your solicitation; that then you would bargain with those parties, and you would finally conclude at a price. Now, what I am asking about is in respect to those first quotations. That was the question I addressed to you.

A. May I have that question again?

(The question was repeated by the stenographer as follows:)

"Q. Have there not been periods where for weeks or months at a time the market price and the first quoted price would be the same?"

THE WITNESS: You have not satisfactorily explained to me what you mean by "first quoted price." By all the manufacturers, do you mean?

By MR. DICKINSON:

Q. I mean that when you sent out the solicitations for a bid for a particular purchase, the first price that you got in response to that; that is what I mean by the first quoted price.

A. From all the makers?

Q. Those that you solicited; yes.

A. I do not doubt there have been such times when that was the case, when they would quote the same price.

Q. Is it not a fact that during the last ten years, and especially in the early part of that ten years—we will say the first five of that ten years—that would be from 1903 to 1908, the prices were, as quoted by the manufacturers throughout long periods, sustained uniformly for a number of these steel products, and was that not known to you and everybody else in the trade?

MR. LINDABURY: I object to that question because it involves a contradiction in itself. The first part of the question is as to the quotations to him, and now the next part asks whether everybody did not know what the quotations to him

were, which he could not know. If you will strike out the last part.

(The question was repeated by the stenographer.)

MR. DICKINSON: I did not say anything about quoting to him, but generally.

MR. LINDABURY: I thought you did.

(The question was again repeated by the stenographer.)

MR. DICKINSON: Do you understand the question, Mr. Heyburn?

THE WITNESS: I think I do. I was just trying to think about the facts in regard to that. 1903 to 1908, you say?

By MR. DICKINSON:

Q. Yes.

A. I do not believe I can testify as to anybody's experience except my own. As to what is known to the trade or what the trade thought, I do not believe I can say anything about that. During part of that period from 1903 until 1908 there was a great demand for material, and if one manufacturer would find out what the highest price was that anyone else was getting, he would generally ask it; so that there was an advancing market during most of that time, and a uniformity resulted from that condition.

Q. You know, as a matter of fact, in your experience, that there was uniformity?

A. At times; but I cannot say that that uniformity affected our buying price.

Q. But I am asking, now, if it is not a matter within your knowledge that, during that period, over a long period of time, there was uniformity in the prices among the manufacturers?

A. Undoubtedly there is a great deal of uniformity in heavy products at all times among manufacturers, Judge.

Q. Mr. Heyburn, I am not asking you about all times. I am not asking you about any other time. I am asking you to give your knowledge as of that time. Will you please answer that question, if you can?

A. My opinion is that there was a great deal of uniformity as to prices between the manufacturers at that time.

Q. And you have given your theory as an explanation of it.

A. I withdraw my theory.

Mr. Lindabury: You need not withdraw your theory unless you have changed your mind about it, Mr. Heyburn.

The Witness: I have not changed my mind.

By Mr. Dickinson:

Q. It is a mere theory on your part, is it not?

A. It is an opinion on my part, based on my experience of many years as a merchant.

Q. And whether there was something back of that you do not undertake to say?

A. I do not undertake to say. It is not within my province.

Q. Now, Mr. Heyburn, you have given some figures as to particular purchases, in answer to questions put to you on your direct examination. You gave them from a memorandum, did you not?

A. Yes.

Q. Have you any recollection independent of that memorandum? I am not asking you to look at it, but whether you have any independent recollection aside from that memorandum?

A. I have a very intimate knowledge of the business that I am engaged in, and I can give you statistics in detail in regard to it, without any memoranda, in some lines that would probably astonish you. I could look at those statistics, and if there was an error in them of an important character I could tell it. I am in a position to vouch for those figures I have given you.

Q. Let us see whether you are or not. Did you make that memorandum?

A. I did not.

Q. Who made it?

A. I had it made from our books.

Q. Some one of your subordinates made it?

A. Yes.

Q. And gave it to you?

A. Yes.

Q. He made it from your books?

A. Yes.

Q. Those figures there, where they represent particular amounts in any particular year, involve a good many transactions for that year, do they not?

A. A good many.

Q. And these are concrete results which follow from the use of other figures, in a variety of transactions?

A. Yes.

Q. And you do not recall all those transactions, do you, and the tonnage involved in them? Do you carry that in your mind?

A. No.

Q. That would be impossible, would it not, with a man in your business, with all the transactions that you have?

A. No; it is not impossible, because I do know a great many details in connection with my business.

Q. Of course I do not question that. They would not have you there if you did not. That is quite clear. But now let us take the year 1909; do you know the tonnage of sheets that your concern bought in the year 1909?

A. No; I could not give that from memory. I could give an approximation of it.

Q. Those figures that you gave there combined the sheets and roofing together. Do you know, now, what proportion of that was sheets and what proportion was roofing for any one year?

A. Yes, approximately. I have made specifications for so many years that I know about what the relationship is. I could make you up a specification now, from memory, of a carload of sheets and roofing that would be approximately correct.

Q. You say you made them for several years. Was that a constant factor each year,—the relation between sheets and roofing? Would it be the same from year to year?

A. Based on statistics.

Q. I understand. What I mean to say is: Would the percentage that you sold of roofing be the same in comparison with sheeting every year, or did that vary in different years?

A. There has been a material change in the sale of flat sheets compared with the sale of roofing. At one time it was all flat sheets, and it just gradually changed until it is largely now a predominance of roofing.

Q. Could you give, however, the percentage for any one of those years, back four or five or six years, say?

A. I could not give it as statistics. I could give it from my judgment as to what would be a proper relation between them. It would be something like 15 per cent. of flat sheets and 85 per cent. of roofing.

Q. For what year?

A. For any recent year.

Q. How far back?

A. For four or five years.

Q. The relation would vary from that back, would it?

A. Back of that the percentage of flat sheets would gradually rise, and the roofing percentage would gradually be smaller.

Q. Now, some of these bars that you have been speaking about, that you have bought in the last ten or twelve years, were iron?

A. Yes, sir.

Q. Now, take the year 1903. What proportion of your bars were iron and what was steel?

A. In 1903 they were practically all iron.

Q. Well, 1904?

A. The same.

Q. 1905?

A. The same, but some steel through all of that.

Q. Some steel?

A. Yes, sir.

Q. But the percentage would be very small in 1905?

A. Very small; yes, sir.

Q. Well, 1906?

A. Still mostly iron.

Q. 1907?

A. The same.

Q. Still mostly iron?

A. Still mostly iron.

Q. 1908?

A. 1908, you say?

Q. Yes.

A. I think it was in 1908 that we made a change from iron to steel.

Q. You said about five years ago that you made it; that would bring it back to 1908?

A. Yes.

Q. Did you buy any of these iron bars from any of the subsidiaries of the United States Steel Corporation?

A. None of them at all; no, sir.

Q. No iron bars?

A. No iron bars.

Q. You did not solicit them on iron bars?

A. No.

Q. Take 1908, from that time down to the present time, and state what percentage of your steel bars you have bought from the United States Steel Corporation in each year.

A. Our first contract on steel bars was made with the Carnegie Steel Company, what we call soft steel bars, merchant bars. That was probably in 1908. I think we bought all of our soft steel bars from them, probably, that year.

Q. Take 1909; what percentage did you buy from them?

A. I can not recall that; I can not tell you that.

Q. Well, 1910?

A. I do not believe I can remember that back of this present year; any proportion, as between the different manufacturers.

Q. Well, did you get more than 50 per cent. from the Carnegie?

A. Yes, more than 50 per cent.

Q. During all of those years?

A. I expect so; yes, sir.

Q. How high would you put it, approximately?

A. I can not just recall when the Republic came into the market as makers of steel bars. For that reason I can not tell you just when we began to buy from them.

Q. But I believe you stated in your direct examination

that for the last five years you had gotten about 78 per cent. from the Carnegie?

A. Seventy-eight per cent., yes; I think that might be a proper average for five years. We bought some from La Belle, which I can not just recall the amount of.

Q. Now, in giving sheets, you combined that with roofing in your figures?

A. Yes, sir.

Q. Now, take sheets alone. What percentage in 1913 did you get from the American Sheet & Tin Plate Company?

A. I have not the figures on that, and could not testify as to what it would be.

Q. Could not approximate that?

A. We regard sheets as more or less unimportant, as going along naturally with roofing.

Q. Well, in 1912 could you give it—not from any memorandum—your memorandum is sheets and roofing. I want sheets.

A. No; I could not give you any separate figures as to sheets and roofing.

Q. You have no recollection, then, as to the relation between sheets and roofing?

A. In 1912?

Q. Yes.

A. Yes, I think I could tell you about what it was.

Q. That is what I want to know, then; in 1912 what percentage of your sheets did you get from the American Sheet & Tin Plate Company?

A. Approximately 50 per cent., or a little over, to my recollection.

Q. I believe that you stated you got over 50 per cent. of sheets and roofing together?

A. I understood you were including the two.

Q. No; I just want to get the sheets alone.

A. I can not speak of sheets separate from the roofing in my testimony.

Q. And your memory is not sufficiently accurate to give any statement on that?

A. As between sheets and roofing?

Q. Yes.

A. No.

Q. Or the percentage of sheets that you got that year?

A. No.

Q. Now, coming to wire; beginning with 1903—that is as far back, I believe, as you go, is it?

A. What do you mean, as far back as I go?

Q. Twelve years, I believe, you were asked about that; that is 1901. Take 1901; did you include nails among wire products?

A. Yes; wire nails.

Q. Did you buy wire nails that year?

A. Yes, sir.

Q. From whom did you buy them?

A. 1901, I was buying wire nails from two concerns principally; one, the Kelly Nail & Iron Company, of Ironton, Ohio; and the American Steel & Wire Company.

Q. What proportion did you get from the American Steel & Wire Company that year?

A. A large majority of the tonnage.

Q. You can give us a somewhat nearer statement than that, can't you?

A. I do not believe I can.

Q. Well, over 75 per cent.?

A. Yes.

Q. Over 80 per cent.?

A. I can not tell you; that is getting too close.

Q. Take 1902: what percentage of your nails did you get from the American Steel & Wire Company?

A. I should say 75 per cent. or over.

Q. 1903?

A. You might run that right through.

Q. How?

A. You might run that same percentage right through.

Q. Down to the present time?

A. Yes, sir.

Q. Now, in 1902, in the purchase of wire nails, what concerns did you deal with other than the American Steel & Wire Company?

A. The Kelly Nail & Iron Company, of Ironton.

Q. Is that the only one?

A. That is the only one that I recollect.

Q. That is the only one that you recollect, then, taking any bids of, other than the American Steel & Wire Company, that year?

A. I am speaking of the concerns we dealt with. That was your question, I believe. I do not remember getting quotations from other than those two; there might have been, but I do not remember.

Q. How about 1903? With whom did you deal that year besides the American Steel & Wire Company?

A. Kelly Nail & Iron Company.

Q. Do you recall that you got quotations that year from the Kelly Nail & Iron Company?

A. Made purchases from them.

Q. You made purchases from them?

A. Yes, sir.

Q. Did you get quotations from anybody that year except the Kelly Nail & Iron Company and the American Steel & Wire Company?

A. I do not remember.

Q. Take 1904; what would your answer be?

A. The same.

Q. And how far down would it be the same?

A. That is, your question is now just what?

Q. I will put it this way: Take 1905; from whom did you purchase nails?

A. Judge, I can not give that detail, although I was the active buyer and handled every transaction in nails at that time, but I can not recall the details as to just what in a particular year we were buying from a particular manufacturer in the way of tonnage. I could only do that by preparing myself and coming with the data.

Q. Well, I thought maybe from what you said a while ago about the way you carried statistics in your mind that you could answer that. You can not state, then, for 1905, from whom you purchased wire nails, or from whom you got quotations?

A. I know that for several years after 1900 we bought nails and wire from the Kelly Nail & Iron Company as well as the American Steel & Wire Company. My recollection is that that condition continued for several years after 1900, possibly to 1905, 1906 or 1907.

Q. So it continued, then, to 1906; you feel pretty sure about that, do you?

A. I think to about 1906.

Q. Well, then, let us take 1906. From whom did you purchase wire nails?

A. Principally from the American Steel & Wire Company.

Q. Any one else?

A. Practically no one else.

Q. From whom else did you get bids that year on wire nails; do you know now?

A. I do not know.

Q. Take 1907: from whom did you buy?

A. The American Steel & Wire Company.

Q. From whom did you get bids that year on wire nails other than the American Steel & Wire Company?

A. I don't remember.

Q. Now, I will address you the same questions for 1908.

A. The same answer.

Q. 1909?

A. The same answer.

Q. 1910?

A. The same answer.

Q. How about 1911?

A. The same answer.

Q. And 1912?

A. The same.

Q. Well, now, what other wire products except nails did you buy? You have spoken of wire. I mean in large quantities?

A. Poultry netting for one, a large product.

Q. Poultry netting would be small in your business as compared with other things in tonnage, would it not?

A. Pretty large; a hundred carloads, or something of that kind.

Q. When did you begin to buy poultry netting? Did you buy poultry netting as early as 1901?

A. Yes; we have handled poultry netting for a long time back of that, and it has been growing in volume.

Q. In 1901 from whom did you buy poultry netting?

A. We generally buy poultry netting—I will try to answer just as you want.

Q. No, do not answer just as I want.

A. I mean I will try to make the answer complete. And I might make a statement.

Q. Yes, that is what we want.

A. We generally buy poultry netting from two poultry netting manufacturers, in order to insure us a supply, sometimes more than two, and possibly for some other reason, center of distribution, or something of that sort. You say in recent years; we have bought poultry netting from Wickwire Brothers of Cortland, New York, a very large concern; from the American Steel & Wire Company; and in more recent years from Ludlow-Saylor Wire Company, of St. Louis, a considerable quantity.

Q. How far back have you been buying from Ludlow-Saylor Company?

A. Not more than two or three; they have not been a factor in the business for many years.

Q. And of recent years you have been buying from the American Steel & Wire Company, Wickwire and Ludlow-Saylor?

A. Yes.

Q. Back of that you bought only from the American Steel & Wire Company and Wickwire?

A. During some of the years you have been mentioning, and back in the nineties——

Q. I am not speaking of the nineties, I am only speaking since 1900.

A. We have bought some of Gilbert & Bennett.

Q. Since 1900?

A. Yes.

Q. What year would you say?

A. I could not say what year it was.

Q. In 1901 what proportion of your requirements did you buy from the American Steel & Wire Company?

A. I cannot give you an answer in quite that way; generally speaking, we have been buying more from Wickwire than from the American Steel & Wire Company.

Q. Generally speaking?

A. Generally speaking, yes.

Q. How much more?

A. Probably 50 per cent. more from Wickwire than from the American Steel & Wire Company.

Q. Do you remember that that was so during all those years, or would it vary?

A. It would vary some, but I could testify that usually the preponderance of business went to Wickwire Brothers.

Q. Take the year 1901; from whom did you solicit bids for your poultry netting?

A. I cannot tell you that. Generally it was my custom at the opening of a season to write to all the manufacturers in that line and ask them for quotations, and ask them whether they desired to compete for our business. Very often they would say, "We do not; you are out of our territory," or "Your freight rates are too high," or for some reason that was peculiar to themselves.

Q. That was a sort of preliminary skirmish?

A. Yes.

Q. But actually, on the bids that you asked for, what quotations did you take from Wickwire and the American Steel & Wire Company in 1901?

A. I could not answer as to that detail.

Q. Can you say that you bought from any others on any particular contract?

A. Not as to that particular year.

Q. How about 1902?

A. I could not tell you; the same answer.

Q. Would it be the same on down to 1912, except at the times when you bought from the Ludlow-Saylor Wire Company?

A. Yes; that is practically true up to this day.

Q. What tonnage did you buy last year in wire nails, in 1912?

A. In 1912, about 8,000 tons.

Q. In 1911?

A. Now, you say nails?

Q. Yes; wire nails.

A. That is what we class as nails and wire; that is nails, barbed wire, plain wire and staples.

Q. Could you give us for nails alone?

A. Yes; I can give it approximately for nails.

Q. Give it for nails, then.

A. About 5,000 tons of that would be nails.

Q. Then, for 1911, what would it be?

A. 1911 was not quite so much.

Q. Would it decrease on back?

A. No, in 1910, on the other hand, it was 8,000 tons again.

Q. That was very large?

A. Yes; I just happened to remember that.

Q. How about 1909?

A. I have not got the figures in my mind for 1909.

Q. Have you for any of the preceding years?

A. You mean when?

Q. Back of 1909, for wire nails?

A. Our business on wire nails has run along from 90,000 to 120,000 kegs per annum for many years; it is a business that we do not seek to increase, because it is unprofitable.

Q. Now, take barbed wire, fence wire and heavy wire that you bought in 1901; from whom did you buy that?

A. From the American Steel & Wire Company principally.

Q. Altogether?

A. We were buying some plain wire from the Kelly Nail & Wire Company at that time.

Q. But outside of that, all your requirements that I have named were from the American Steel & Wire Company?

A. Practically.

Q. How long did that continue?

A. That has continued practically up to now.

Q. Now take the year 1902, from whom did you solicit bids

upon that character of purchases other than from the American Steel & Wire Company for the year 1902?

A. I don't remember.

Q. Can you remember for any of these years?

A. I know that if there was a man that had any price to make I was always after him.

Q. Yes; but I ask you now if you remember any other concern from whom you solicited bids for any of these years other than the American Steel & Wire Company on the wire products we have just specified?

MR. LINDABURY: Do you mean to include in that those who presented bids unsolicited? That is, from whom he got bids?

MR. DICKINSON: I am asking what he solicited.

THE WITNESS: We solicited bids from all the manufacturers who might be possible sellers to us. That is our general policy as buyers. As to what we did with any particular manufacturer in one year it is not possible for me to testify.

By MR. DICKINSON:

Q. You cannot state, now, anybody that you solicited in 1902?

A. No, I cannot.

Q. Or in 1903?

A. No.

Q. Or any other year down to the present time?

A. No. I would modify that, and say that a year or so ago I learned that the Jones & Laughlin people had put in a nail and wire plant near Pittsburgh and were in the market; and I took it up with the buyer, and sent him to Pittsburgh to see what arrangements could be made with them; what kind of a proposition they would make. They did make us a proposition, but we did not regard it as favorable, so we did not deal with them; we did not make a contract with them.

Q. That was a year or so ago?

A. That was when they put in their new plant there, which, I should think, was two years to three years ago.

Q. Two or three years ago?

A. Yes.

Q. That is the only one you can recall, then, is it?

A. That is the only one I recall.

Q. That is all you recall now?

A. Yes.

Q. What do you include under the term "heavy wire products"?

A. I did not use the term "heavy wire products."

Q. That does not mean anything especially, then, to you?

A. Wire products to us means the wire products that we carry.

Q. State what they are, will you?

A. Wire nails, plain wire, barbed wire, staples, poultry netting, poultry and rabbit fence, field fence.

Q. Poultry and rabbit?

A. That is a light fence, between poultry netting and field fence. I would also add to that list bale ties.

Q. That means cotton ties?

A. No; for hay baling; for hay and also for something else in the lumber region; I have forgotten what it is.

Q. Have you bought generally these various things from the American Steel & Wire Company?

A. A large part of them, yes.

Q. Throughout those years?

A. Yes.

Q. If I should ask you the same questions as to prices and quotations in respect to each of these throughout those years, would your answers be substantially the same as they were as to those things I did ask you about?

A. There are modifications to that which possibly, in order to get at just the facts, you would want the details of. Some of our field fencing, for instance, we buy from the Keystone Steel & Wire Company, and we buy some nails from the Indiana Steel & Wire Company; we buy some barbed wire from the Kokomo Steel & Wire Company, and have been doing so for several years.

Q. Barbed wire?

A. Yes.

Q. Let us take up barbed wire, then: take the year 1901; from whom did you buy barbed wire?

A. That is going too far back for me. I cannot tell you.

Q. How about 1902?

A. In a general way I could say during all those years we were buying barbed wire principally from the American Steel & Wire Company.

Q. Down to the present time?

A. A majority of our product.

Q. Do you know from whom you took bids other than the American Steel & Wire Company on barbed wire in 1901?

A. No, I do not.

Q. Do you know for any of those years?

A. No.

Q. Take field fence, now: What kind of field fence do you handle?

A. We handle the American Steel & Wire Company's Royal fence. That is what we handle.

Q. How long have you handled that?

A. Ten or twelve years.

Q. So you buy your field fence, and have, exclusively, from the American Steel & Wire Company?

A. Yes.

Q. From whom did you take bids in the year 1901 or 1902 on field fence, other than the American Steel & Wire Company?

A. We did not handle it at that time.

Q. When did you begin to handle it?

A. When we took up the American Steel & Wire Company's Royal fence. That is when we began to handle it.

Q. When was that?

A. I should think it was as much as twelve years ago.

Q. Then do you know from the year 1902 from whom you solicited bids other than the American Steel & Wire Company on field fence?

A. We have figured with several manufacturers who have taken up the manufacture of field fence in that time, but we have not thought that their propositions were as favorable as those that were made by the American Steel & Wire Company to us on their Royal fence.

Q. That is to say, at various times in the last twelve years you have figured with manufacturers of other fences?

A. Yes.

Q. That is not exactly what I am asking you.

A. I beg your pardon.

Q. What I am asking you is whether or not, for the year 1902, or 1903, or any subsequent years you can recall from whom you solicited bids in competition with the American Steel & Wire Company, if you did, for field fence?

A. You are using a term, when you say "solicit bids" that does not quite cover the practice of the trade. The practice of the manufacturers is to solicit our bids.

Q. I will put it that way: Can you recall for the year 1903, or any subsequent years, what maker of fence, and in what particular years it occurred, solicited your trade, and from whom you got bids at the time and before you consummated any particular purchase from the American Steel & Wire Company?

A. We have had propositions from the Keystone people of Peoria, the Indiana Steel & Wire Company, and some others; but you cannot answer that question just in that way, because field fencing sells by style and brand to a certain extent, each manufacturer making a different kind.

Q. Still, they all compete for the same use, do they not?

A. For the same use, but not for the same trade; and a merchant who handles it generally selects a kind that he thinks the most suitable to his trade, price and everything considered; the kind that he thinks he can do the largest business with; and then he buys from that manufacturer, using advertising and other means in introducing it and keeping it in the market. It is not strictly competitive, as some of those other things are.

Q. Then you have not received competitive bids on wire fencing, and you have not regarded that as a subject matter of competition in price?

A. It is not a subject of competition in price. It is a question of selection of style and brand with the buyer.

Q. What was your tonnage last year in field fence—you

got it all, I believe you said, from the American Steel & Wire Company?

A. Our tonnage last year was between seven and eight thousand tons of field fence; not poultry and rabbit——

Q. Yes; I know. I asked you separately about the poultry netting.

A. That includes, however, the poultry and rabbit fence that is made as a part of the line of Royal fence. There is some poultry and rabbit fence in there, a small part. We carry a line of poultry and rabbit fence that is separate from that, made by another maker.

Q. Throughout the last twelve years is it not a fact that largely more than 50 per cent. of all your purchases of all the character of things you have been describing here have been from the United States Steel Corporation?

A. Taking into account the wire products, yes. Outside of the wire products I should say no, not by a great deal.

Q. What do you include in that outside of the wire products?

A. I would include in that bars, which were largely iron in that time, and not bought from the Steel Corporation at all.

Q. I was confining it to steel.

A. And pipe, which we have never bought from the Steel Corporation.

Q. My question, however, related to steel and not to iron pipe.

A. I thought you were speaking of the purchases of all material.

Q. No; I was not including iron. Now, will you answer it with the iron eliminated?

A. Bar iron, you mean?

Q. Yes. Has not your largest percentage of steel bars been purchased from the Corporation also?

A. Yes; since we took up steel bars, it has.

Q. What was your tonnage in pipe last year?

A. About 2,000 to 2,500 tons.

Q. From whom did you get that?

A. The Republic Iron & Steel Company, mostly, last year.

Q. Was that under contracts?

A. Yes.

Q. How many different contracts?

A. Four contracts.

Q. When was the first one made in 1912 with the Republic?

A. I cannot tell you exactly, but I should say it was made probably in December, 1911; in November or December, 1911. The contract periods run by quarters, I think.

Q. Do you know from what other makers at that time, when you negotiated that purchase, you took bids, and what the bids were?

A. I think when we began to buy pipe for 1912 we figured with the Republic Iron & Steel Company, and the La Belle, at Steubenville; I think I had the buyer specially take that up with the National Tube Company; the Youngstown Sheet & Tube Company have made us propositions in that time.

Q. I am speaking of that particular contract now. Do you say that you remember from whom you did get bids or quotations on that particular contract?

A. There would be about four contracts in that period.

Q. No, but I mean the first one that you made with the Republic that covered 1912 deliveries. Do you know from whom you got bids?

A. No; I cannot recall just as to that.

Q. What was your tonnage in poultry netting in 1912?

A. That was last year. I think our sales in the year 1912 were about 75,000 rolls.

Q. What tonnage would that be?

A. That would be—1,000 rolls to the car and 15 tons to the car, that would be 75 cars of 15 tons; that would be about 1,200 tons, wouldn't it?

Q. I don't know; I was not following you.

Mr. Colton: Yes, about that.

By Mr. Dickinson:

Q. Take 1911: what would it be?

A. Something like the same; possibly a little less.

Q. And 1910?

A. It has been gradually growing. Poultry fencing has

taken the place of some of it. It would have grown much faster except for that; they are using the heavier product instead of the lighter.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

CHARLES M. WAMBAUGH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. Columbus, Ohio.

Q. What is your occupation?

A. Manufacturer of chains and saddlery hardware.

Q. What is the name of the company with which you are connected?

A. Columbus Chain Company.

Q. What office have you in that company?

A. President.

Q. How long have you been president?

A. Since 1901.

Q. When was that company organized?

A. 1900.

Q. Had you any connection with it in 1900?

A. I organized it.

Q. What office did you hold then?

A. General manager.

Q. Have you been familiar, since the organization of that company, with its purchases of steel supplies?

A. Yes, sir.

Q. How does that company rank among the producers of steel chains in the United States?

A. Among the largest, I think.

Q. Is there any other single chain factory in the world that is bigger than yours?

A. No, sir; I think not.

Q. In what form do you buy your steel supplies?

A. Bars and rods, principally.

Q. What kind of rods?

A. Wire coil rods.

Q. That is, the product of a wire rod mill?

A. Yes.

Q. What percentage in tonnage of your purchases are of rods and what percentage of bars?

A. Well, our bar consumption is light; it is principally rods.

Q. Your principal purchases are of rods?

A. Yes, sir.

Q. Can you give us any idea of the extent of your annual purchases in rods, Mr. Wambaugh?

A. Rods and bars—you mean in steel, or just rods alone?

Q. I want both facts. I do not care which you give first.

A. I should say $50,000 of rods a year.

Q. And in bars, about how much?

A. $5,000 approximately. I do not want to say exactly. That is steel, that doesn't include iron.

Q. Do you also buy iron bars?

A. Iron bars; yes, sir.

Q. About what do your purchases of iron bars amount to annually?

A. Approximately $75,000 to $100,000.

Q. Is iron used for any of the same purposes as steel in this business?

A. We use iron on some grades of chain, and steel on other grades or qualities of chain. We use steel entirely on saddlery hardware items.

Q. Are the two products, iron and steel, interchangeable for some purposes?

A. Yes; they can be.

Q. I mean iron chain is sometimes used for the same purposes as steel chain?

A. Yes, sir.

Q. Are iron chain and steel chain to some extent in competition with one another?

A. Only as to price, and for some purposes they cannot use steel chain. The work won't permit it. Other purposes you can use either iron or steel, and that is optional, of course.

Q. And therefore the two products are, in a sense, competitive with one another?

A. Yes; iron and steel, that is for chain.

Q. Coming back to your steel purchases, Mr. Wambaugh, do you buy from time to time as you need the material, or do you buy on contracts that cover specific periods of time?

A. We usually buy on contracts; almost entirely on contracts.

Q. And for what periods?

A. Six months; in June and December.

Q. Before awarding those contracts do you make inquiries from different makers of rods?

A. Whatever it is, iron or rods or bars; whatever we want.

Q. Before making rod contracts you ask quotations from different manufacturers of rods?

A. Yes, sir; different manufacturers of rods.

Q. And the same with the bar makers, in the bar contracts?

A. Yes, sir.

Q. Tell us what manufacturers of rods you have been asking quotations of.

A. The American Steel & Wire Company, Cambria Steel Company, Jones & Laughlin, Pittsburgh Steel, and recently the Republic Iron & Steel Company; they have only recently been making rods.

Q. They have gone into the business recently?

A. They are in the business now.

Q. Do you ever ask quotations of Roebling or Wickwire Brothers, or the Eastern manufacturers?

A. No, sir.

Q. They are too far away, are they?

A. Too far away; yes, sir.

Q. Do the prices that are quoted to you in response to such inquiries vary, or are they uniform?

A. They vary almost invariably.

Q. How long has that been so?

A. That has been practically always the case.

Q. You say practically always. I infer there are some times when prices do not vary so much?

A. Some periods; yes, sir.

Q. How would you characterize those periods? Can you describe them in any way?

A. Only such times as when business is not exactly normal, the mills are very busy; at such times as that we have paid a premium to get deliveries, and the mills were not very anxious for business.

Q. The competition, then, is among the buyers instead of the sellers; is that correct?

MR. COLTON: Objected to as leading.

THE WITNESS: Yes, it is a question of getting the deliveries then, of getting the goods.

By MR. REED:

Q. Has there been competition for your business in rods?

A. Oh, yes, indeed.

Q. How about bars? Do you ask quotations on them, Mr. Wambaugh?

A. The same condition exists in bars as in rods.

Q. Quotations vary in the same way, do they?

A. Yes, sir.

Q. Of what different bar makers have you asked quotations?

A. The Republic Iron & Steel Company, Carnegie Steel Company, J. & L., Cambria.

MR. REED: That is all. Cross examine.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

CHARLES M. WAMBAUGH,

the witness under examination at the taking of recess, resumed the stand.

MR. REED: I would like to ask Mr. Wambaugh a few more questions.

DIRECT EXAMINATION (Continued)

By MR. REED:

Q. Can you give us the amounts that you have paid to these different producers of bars and rods during the past ten years?

A. I can from a memorandum, yes.

Q. You made the memorandum yourself, did you?

A. I helped to make it; it is made from the records.

Q. Will you give us the amounts?

MR. COLTON: I object to the use of the memorandum on the ground that the witness is not shown to have made it himself, and on the ground that it has not been shown that it was made in such a way as to be proper evidence.

MR. REED: I was going to ask him to produce the memorandum and testify with his recollection refreshed by it.

MR. COLTON: I object to it further on the ground that it has not been shown that the witness can refresh his recollection by the memorandum, or that he has any recollection independent of the memorandum.

THE WITNESS: The American Steel & Wire Company, $248,384.70.

Carnegie Steel Company, $131,854.22.

Jones & Laughlin, $143,281.76.

Cambria, $28,639.03.

By MR. REED:

Q. In these boom times that you spoke of this morning, have some of the producers of rods or bars asked for premiums for quick deliveries?

A. They did.

Q. Has the Steel Corporation asked premiums?

A. They never did to us; no, sir.

Q. Do you recall instances where they have furnished rods to you on short notice without exacting premiums?

A. You mean the American Steel & Wire Company?

Q. Yes.

A. Yes, sir.

Q. Will you tell us of that?

A. That was three years ago; I think that would be 1910, if I remember correctly. We only had one contract on rods; that was with Jones & Laughlin Steel Company, and we were handicapped fearfully by reason of deliveries; we just simply could not get the material, and it came to a place where it meant material or we would close the factory, and I wired Chicago to ship us——

Q. Whom do you mean at Chicago?

A. (Continuing) The American Steel & Wire Company; that is their western headquarters—to ship us three or five cars of different sizes of rods immediately. We said nothing about the price; in fact, we did not care about the price; it was material we needed and had to have. We got one car within a week and, I think, if I remember correctly, in less than three weeks, or a little over two weeks, we got all five cars, and they were all invoiced at absolutely the market price at that time.

Q. Without any premium?

A. Absolutely none.

Q. Although you had awarded your regular contract to Jones & Laughlin?

A. Yes.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Since the formation of the American Steel & Wire Company the prices of wire rods have been much steadier, and the American Steel & Wire Company, in your opinion, has been a sort of balance wheel as regards prices, tending to keep prices down in boom periods and to prevent their going lower in periods of depression; is that right?

MR. REED: If I might suggest, Mr. Wambaugh, when you are asked so many questions in one you might pick out the truth in the parts in which you concur and in the others in which you do not concur; just like picking the bones out of a fish.

MR. COLTON: The stenographer will read the question. Just address your mind to the entire question and answer.

(The question was repeated by the stenographer.)

THE WITNESS: It has been our judgment that they have in several instances kept the market from becoming what you would call a runaway market; in boom times that would be. As to keeping prices from going lower in a depression they always get low pretty quick and it is not always the American Steel & Wire Company that have quoted the lowest. In fact, I have known some seasons where we have contracted where the American Steel & Wire Company price has been the highest price that we have had quoted to us.

By MR. COLTON:

Q. As a matter of fact, has not the American Steel & Wire Company, in your opinion been a sort of balance wheel as regards prices?

A. No, I could not say exactly that. I think they have by conservative business kept prices from running away and getting abnormally high. I think they have, for the reason that many times some manufacturers of this same product have told me that if it were not for the American Steel & Wire Company the prices would advance, but they could not get them to advance prices.

Q. They could not get prices over the American Steel & Wire Company price?

A. No, sir.

Q. And as a matter of fact, they did not go much below the American Steel & Wire Company?

A. Why, no; they would be very foolish if they did. They should get as much for their product as anybody, but they cannot get any more.

Q. As a matter of fact, the prices did fluctuate about the American Steel & Wire Company's price, did they not?

A. I can say that the prices fluctuated.

Q. They did not vary very much from the American Steel & Wire Company's price?

A. The American Steel & Wire Company's prices have varied as well.

Q. I know, but when the American Steel & Wire Company has fixed its price, the prices of these independent manufacturers of wire rods did not vary very much from it, did they?

A. Sometimes they did; it depends somewhat on the product of rods and bars.

Q. I am speaking of wire rods.

A. Yes; I have known them to vary considerably.

Q. As a general thing, have they varied very much from the prices of the American Steel & Wire Company?

A. That depends a good deal upon the condition of the mills and the times.

Q. I know, but I am now speaking generally. I am asking whether, speaking generally, they have varied very much from the price of the American Steel & Wire Company in periods.

A. I say, if they needed the business, they vary more than they do if they do not; and in normal times that is a different proposition, and that is what makes the variation.

Q. Aside from what makes the variation, or your opinion as to what makes the variation, what is the fact as to whether, as a rule, they varied very much from the American Steel & Wire Company's prices?

A. I have known them to vary almost invariably; it is not always a sameness; that is what you want to know, whether there is a sameness?

Q. No, I want to know whether they vary very much from the prices of the American Steel & Wire Company or not.

A. The American Steel & Wire Company's price is not always the price that we buy at; it is not always the price that is taken as the market.

Q. It is not always the market price, but very frequently is?

A. No, I never considered any one concern's price the market price; I do about three.

Q. Can't you answer the question as to whether these independents vary very much, as a general rule, from the price of the American Steel & Wire Company in wire rods?

A. I have known them to, yes.

Q. You have known them to?

A. Yes.

Q. I am asking as a general rule whether they do vary very much from it or not.

A. I have known a variation of twenty-five cents to a dollar a ton.

Q. You have known that variation?

A. Yes.

Q. But as a general rule, the variation is not very great from the price of the American Steel & Wire Company, is it?

A. I do not catch your meaning. We do not consider the American Steel & Wire Company's price the basis to go about at all; I generally take about three concerns who make rods, and their prices would be considered the market, as near as we could arrive at it, but those prices vary. I do not take the American Steel & Wire Company, or Jones & Laughlin, or the Cambria, or any one, and I gather from your question that you want to fix the American Steel & Wire Company's price as the base, which we do not.

Q. No, I do not want you to fix it as the base. My question is whether the prices vary very much from the American Steel & Wire Company's price, as a general rule, or not.

I would like to have a yes or no to that, and then any explanation you want.

Mr. Reed: He has already answered it half a dozen times.

The Witness: I have already said that it varied.

By Mr. Colton:

Q. I ask you whether they have varied very much from that price.

A. I have known a variation of twenty-five cents to a dollar a ton.

Q. But you do not tell me anything about what the variation is as a general rule.

A. That is the general rule.

Q. You say you have known them to vary that much; and that is the general rule, that they vary as much as 25 cents?

A. I have known them to.

Q. Yes; you have known them to, but is it the general rule or not?

A. It is with us. I cannot go beyond that.

Q. Mr. Wambaugh, did you not state that in your opinion you regarded the American Steel & Wire Company as a sort of balance wheel as regards prices?

A. I did. I said I considered they kept the market from running away at times, and also kept the market from going down many times, because the other manufacturers of steel rods and bars cannot get any more than they can get for their product. The Jones & Laughlin Steel Company, it might be said, are just the same; they manufacture that product.

Q. There is no other company that manufactures or has manufactured from 60 to 75 per cent. of the wire rods since 1901, is there, in the United States?

A. You mean that we have bought?

Q. No, I say there is no other company that has manufactured such a quantity of wire rods during that period, from 1901 to the present time, as the American Steel & Wire Company?

A. I could not say what the capacity of the other manufacturers of rods is. I do not know what it is.

Q. Don't you know that the American Steel & Wire Company has manufactured from about 60 to 70 per cent. of the wire rods produced in the United States since 1901?

A. No, sir; I do not know what their capacity is. I do not think I ever knew it.

Q. Don't you even know their output is very large?

A. I know their output is very large, but I do not know what it is. I do not think I ever did know what their capacity was.

Q. Do you not know that it is a majority of the wire rod capacity of the United States?

A. What is that?

Q. Do you not know that their output has been a majority of the output of wire rods in the United States?

A. No.

MR. REED: Mr. Colton, you say "has been." Of what time are you speaking?

MR. COLTON: For the entire period from 1901 to date.

By MR. COLTON:

Q. You purchase about 70 per cent. of your steel products, that is, bars and wire rods, from the subsidiaries of the United States Steel Corporation?

A. We have in the last ten years; yes, sir.

Q. And you have bought what sort of wire products from the American Steel & Wire Company?

A. That is all we buy,—rods and bars are the only steel products we use.

Q. While you found in steel bars that the market price as given in the trade papers—you could get under that—you have also found that, as a rule, you could not get more than ten or twenty-five cents under the market price? Is that right?

MR. REED: I object to that question because the witness has not testified anything at all about the market price in the trade papers.

By MR. COLTON:

Q. Answer the question, please.

A. That is, bars?

Q. Yes.

A. We have found that that covers a range from the minimum to the maximum.

Q. That would be from the minimum to the maximum?

A. Yes.

MR. REED: What? 25 cents is from the minimum to the maximum?

MR. COLTON: From ten to twenty-five cents.

MR. REED: Is that ten to twenty-five cents a ton?

THE WITNESS: A hundred pounds.

MR. REED: Ten to twenty-five cents a hundred pounds?

THE WITNESS: Yes.

By MR. COLTON:

Q. Is that a hundred pounds?

A. Bars are sold by the hundred pounds. As I said before, that maximum is very unusual. It is only under very peculiar conditions that that can be had. It is more often the minimum.

Q. It is more often the minimum, and you frequently found times on the first quotation that there would be a number of these manufacturers who would quote the same price on bars, have you not?

A. Under certain conditions, yes, sir; that is, on the initial inquiries.

Q. And the initial quotations of these different manufacturers very frequently coincide with the quotations in the Iron Age?

A. Very seldom.

Q. Do they not quite often?

A. Sometimes they do, but not to an extent that could be relied on.

Q. They do to such an extent that you use the Iron Age quotations as a base?

A. As a sort of a basis to work from; yes, sir.

Q. In wire rods you have been able to get a concession at times, ranging from 25 cents to a dollar a ton, have you not?

A. I have; yes, sir.

Q. But more generally the concession would be about 25 cents?

A. Well, it varies. It is a small amount.

Q. It is a small concession?

A. Yes.

Q. And that is a concession from such prices as are quoted in the Iron Age? Is that right?

A. Yes, sir.

Q. And is the same thing true, that the original quotations are more likely to be nearly uniform than the quota-

tions that you get after you have dickered with the people for a while?

A. Not always; sometimes. As I say, under certain conditions. But after we go and bargain, they vary some.

Q. But the variation is usually not more than about 25 cents?

A. Not much.

That depends, of course, on the conditions of the mills and how badly they want business.

Q. How many different wire rod mills have you visited during the last ten years?

A. You mean mills?

Q. Yes.

A. I have not visited any.

Q. How many different bar mills have you visited during the last ten years?

A. Steel bar mills; I have not visited any.

Q. Can you tell me at what rate the wire mills were running in 1908?

A. No, I cannot.

Q. You do not know at any time the rate at which the mills are running, do you?

A. Do you mean by that what capacity they are running at?

Q. Yes.

A. No, sir; I do not.

Q. Then it is theory on your part as to the exact extent to which they are full or not full, isn't it?

A. Well, yes it is, in this way, that I do not know by any actual experience or knowledge other than the general conditions that are prevailing throughout the country; they probably will be the same with them as with us.

Q. You assume whatever the conditions are with you that the same conditions will prevail with the mills?

A. Not exactly that, not in our particular industry, but we are hit with the rest; it is the general condition of the country. I do not know what capacity they are running but I know sometimes representations are made that they are not running full and need business. That is so in other things.

Q. Now, did you buy wire rods before the formation of the American Steel & Wire Company?

A. Not as the Columbus Chain Company; no, sir.

Q. With what different companies did you buy wire rods before the formation——

A. I did not have anything to do with the buying.

Q. Did you have anything to do with the buying then?

A. Not before that.

Q. Was your company formed before the formation of the American Steel & Wire Company?

A. It was formed in 1900.

Q. That is before the formation of the United States Steel Corporation.

A. Yes.

Q. But not before the formation of the American Steel & Wire Company.

MR. REED: We cannot expect Mr. Wambaugh to know the history of these companies as you do. Why don't you ask him particular dates?

MR. COLTON: I will ask questions in any form that I think proper.

MR. REED: No doubt you will, but I am suggesting a form that perhaps after reflection you may think is more proper than the one you have used.

MR. COLTON: All right, I will use your suggestion.

By MR. COLTON:

Q. Were you a purchaser of wire rods at all before 1900?

A. No, sir.

Q. When did you first begin to purchase wire rods?

A. To any extent after we had been in business for a year; the Columbus Chain Company began in 1900.

Q. You purchased wire rods during 1900, your company?

A. I did, all that we bought, but we did not buy any to any extent during that time.

Q. You bought all that were bought during 1900?

A. Yes, sir; since the formation of the company.

Q. Didn't you buy enough rods during 1900 to know that

during the year before the formation of the Steel Corporation the price of wire rods dropped?

A. We did not use but very few wire rods at that time; we used more bars than we did rods, and I bought the first material that we used through another user of the same material, applied on his contract.

Q. Who was that?

A. The Columbus Bolt Works.

Q. You bought through them?

A. Yes, sir.

Q. And you were not the buyer for the Columbus Bolt Works?

A. No, sir.

Q. From whom did you buy steel bars during the year 1900?

A. I say what we got we got of both bars and rods through the Columbus Bolt Works, on their contract. That was the first year of our existence; we did not use but very little.

Q. What tonnage altogether did you get in that year?

A. I do not suppose the first year—we were building our plant at that time. I do not think we used a hundred tons; nothing to speak of at all.

Q. How much tonnage did you use in 1901 of wire rods?

A. I could not tell you that.

Q. From what company did you buy wire rods in 1901?

A. I have not any records with me except the average of the purchases for the ten years.

Q. Could you approximate how much you bought from the American Steel & Wire Company in 1901?

A. No, sir; I would not like to, because it would simply be a wild approximation.

Q. Could you state now as a matter of recollection that you bought wire rods from any one other than the American Steel & Wire Company in 1901?

A. We have never confined our purchases to the American Steel & Wire Company wholly.

Q. I ask you whether you can state now the name of any other concern from which you purchased wire rods in the year 1901?

A. No, sir; I would not want to say.

Q. In 1902?

A. The same will apply right through; all the record I have is the total purchases made from the different people from whom we have bought steel for ten years, and the periods.

Q. I want to be sure you understand my question, because I do not want you to make a general statement that you would not make if I particularized a little bit more. I am asking you if you remember any company from whom you purchased other than the American Steel & Wire Company wire rods for the year 1902, and you have answered that you could not name any other company. Now, you have also added, whether inadvertently or not, that you could not do that for any year from 1902 down to the present time; did you mean that?

A. I mean this, that we have bought all of the rods that we have purchased in ten years from those concerns that I have named. Now, just what quantity we have bought from each, I can give that as an average, as I have, but what years we bought them and what tonnage in any particular years, I have not that record.

Q. Now, taking up these different companies from which you have purchased, the American Steel & Wire Company, the Cambria Company, and the Pittsburgh Steel Company, you cannot give the year in which you began to purchase from the Cambria Steel Company, can you?

A. Yes, I can, because we only bought from them one year, and that was last year.

Q. How much did you buy from the Cambria Steel Company last year?

A. The total of those figures you have got.

Q. About how much in tonnage?

A. I think it was 1,200 tons, or 1,500, somewhere along there; about 1,200 tons, I would say.

Q. Of wire rods?

A. That is wholly rods.

Q. And yours is open hearth rods?

A. Open hearth coiled steel rods.

Q. Do they still have a differential between open hearth wire rods and Bessemer?

A. No, sir.

Q. They formerly had a differential between open hearth and Bessemer?

A. Yes, sir.

Q. And what were the different differentials between open hearth and Bessemer?

A. At one time I believe it was $2, and then reduced to $1, and then taken off entirely.

MR. REED: Which was the more expensive?

THE WITNESS: Open hearth.

By MR. COLTON:

Q. When did you make that contract with Cambria?

A. We make contracts in June and December for the ensuing six months.

Q. This is the Cambria Company I am talking about.

A. That was last year.

Q. And you made it in June, you think?

A. I think it was some time in June, to expire with the end of the year.

Q. And how many tons?

A. 1,200 tons, I would say.

Q. That was during the year 1912?

A. That was last year, yes, sir.

Q. What contracts did you make with the American Steel & Wire Company during 1912?

A. We did not make any. I beg pardon, we did. We had one contract with the American Steel & Wire Company the same year.

Q. What was the tonnage?

A. 1,200 tons; that is approximate. I cannot give you the exact tonnage.

Q. And about what date?

A. Probably the same time. It is either in June or December. That was the only period that we contract at.

Q. That is, you contracted with the Cambria and the American Steel & Wire Company about the same time in 1912?

A. Yes, sir; that is my recollection.

Q. Did you have overlapping any contracts that furnished you steel from the American Steel & Wire Company?

A. We were out at the time. We aim to cover our wants. We generally have a leeway of, say, from 1,200 to 1,500 tons, and we aim by that to cover our wants. Sometimes we are short and other times we have a little over.

Q. Those are the only contracts that you made during the year 1912?

A. That is all we had, yes, sir.

Q. Take the year 1913: what contracts did you have for wire rods?

A. The American Steel & Wire Company.

Q. Have you made any contracts with anyone else during 1913?

A. No, sir.

Q. How much is the tonnage?

A. We made two contracts with them, 1,200 to 1,500 tons; that is my recollection.

Q. 1,200 to 1,500 tons each?

A. I think that is the amount.

Q. And the first contract was made about June?

A. June and December.

Q. What did you pay? What was the base price for that contract—the one made in June; what was the base price on wire rods?

A. I think it was $31.90 Columbus, if I remember correctly.

Q. What would that be Pittsburgh? Could you give me that?

A. Yes; $30.

MR. REED: Is this for 1912?

THE WITNESS: No, sir; this year.

MR. COLTON: 1913.

By MR. COLTON:

Q. What was the contract?

A. I think both contracts were made—we are working the

last one now—I think it was at $28, if I remember correctly, the second one.

Q. The second one was at a base price, Pittsburgh, of $28?

A. That is my recollection.

Q. You say both the contracts were made in June, during the year 1912; both contracts made during that year were made in June? Or was one made in June and the other in December?

A. One was made in December and the other was made in June. I don't remember which was which. Our consumption is approximately 2,500 to 3,000 tons a year, and we usually cover that by two contracts of 1,200 to 1,500 tons, June and December.

Q. Could you give me the base price of the contract with the American Steel & Wire Company during 1912?

A. No; I don't remember what that was.

Q. Could you give me the base price of the Cambria Company's contract?

A. I can, because that was so low that I shall never forget it.

Q. What was it?

A. $24.

Q. That was the lowest you have known since you have been in the business?

A. I think it is the cheapest we have ever bought at. I don't think we have bought at less than that in ten years.

MR. REED: Was it last year that you made this contract?

THE WITNESS: Last year.

By MR. COLTON:

Q. That was during 1912?

A. Yes.

Q. At the time you gave that contract to the American Steel & Wire Company in June—if it was in June—you think it was in June, do you?

A. I say, I don't remember which was which. Some of that tonnage from the Cambria Steel Company is yet due; not very much, but we have not closed that contract yet.

Q. You do not remember which one of those companies you contracted with first?

A. No, sir; I do not.

Q. What was the base price of the American Steel & Wire Company's contract for 1912? Did you say that you could not remember that now?

A. You mean at the same time with the Cambria Steel Company's contract?

Q. No; I mean the base price of the contract you let to them.

A. That is at the same time we gave the Cambria Steel Company the business—last year.

Q. I understand it is last year, but I understood it was a different time in the year.

A. That is true, but I say I don't remember what that price was.

Q. You do not remember what the base price was at that time?

A. No, sir.

Q. You spoke of sending in an order to the American Steel & Wire Company and not having to pay a premium over the market price. At that time they did not require you to pay a premium over the quoted price in the trade papers, did they?

A. No. I could not tell you what the trade paper price was at that time, but I know what the general quotations on rods were at that time.

Q. What were the general quotations on rods at that time?

A. $30.

Q. $30? That was the general quotation among the different manufacturers on rods before you did any dickering?

A. I was not dickering at that time.

Q. I understand. From time to time there are these general quotations among the different manufacturers in the absence of dickering, so that you know the market price?

A. Oh, yes; the representatives of the different concerns call on us, and they know we use rods, and we get their prices

simply to keep posted as to what the market conditions are; and we, of course, take the trade papers, and know what they quote.

Q. And at that time you do not recollect distinctly as to whether the trade papers were quoting $30 a ton Pittsburgh or not?

A. No, sir; I don't know what they were quoting.

Q. But you do know that the manufacturers generally were quoting that price?

A. Yes.

Q. And that there are frequent periods during which they quote such a market price?

A. You mean such a market price as $30?

Q. I do not mean $30, necessarily; it might be a different one.

A. You mean the same——

Q. Yes; they quote a market price so that you can speak of a market price. Is that right?

A. Yes; there always is a market price, you know.

Q. And you speak of a market price as the price that is quoted by a considerable number of manufacturers? Is that right?

A. Well, yes; it is the price that is quoted by the different manufacturers of a certain product when they know we don't want it yet.

Q. That is the first quoted price, and when you have got a little tonnage, several thousand tons, 1,200 tons or something like that, you can get under that market price?

A. We always hope to.

Q. Sometimes you don't succeed in getting under that price that they quote to you in the first instance, do you?

A. That depends upon the conditions that I spoke of a while ago. If they have more business than they want, then they are pretty independent in their quotations, and we have to have the material, and we have to pay their price.

Q. As regards the matter of how much business they have and how much business they have not, you do not know, do you?

A. Oh, no.

Q. Do you have a market price in bars just about the same as this market price you spoke of in wire rods that they are generally quoting in the first instance, and from which you can get a concession by bargaining?

A. I will tell you frankly that we are not a factor in steel bars. We use so few of them——

Q. That you hardly feel——

A. We do not feel that we can reach the bottom of the market, as we can on rods.

Q. So that you cannot get as much of a concession on bars as you can in the case of rods?

A. We use so few of them, and we are using fewer every year; so that we do not go after them in the same way at all. The bar people make for us some special rollings that we make bridle bits of, and clips for harness, and those we can only get from two concerns. In fact, one of those concerns does not care to roll them. They are all special rollings, and they are pretty hard to make, so that it is a question of our getting that material in quantities sufficient to keep us running; and that being the case, it eliminates a good deal of bargaining, so far as the price is concerned.

Q. Do you know what year you first purchased from Jones & Laughlin?

A. No, sir; I could not give you that.

Q. You do not know the first year you purchased from the Pittsburgh Steel Company?

A. We never have bought anything from the Pittsburgh Steel Company; they are not makers of rods, you understand.

Q. And you never bought any from them?

A. And the Republic Iron & Steel Company are not makers of rods; we never bought from them.

Q. Prior to the time that you began purchasing from the Cambria and Jones & Laughlin you purchased almost exclusively from the American Steel & Wire Company?

A. We have purchased from Jones & Laughlin for several years, though.

Q. I understand, but prior to that time you had purchased?

A. Prior to that time all our purchases of steel had been confined to those four companies.

Q. I have only three here; I may be wrong—American Steel & Wire Company, Cambria and Jones & Laughlin.

A. And Carnegie.

Q. Carnegie does not manufacture wire rods?

A. No, sir; bars.

Q. In wire rods, it is correct that you have confined your purchases of wire rods to those three companies?

A. Yes.

Q. And it is also correct that you did not purchase anything from Cambria until 1912?

A. That is right; yes—last year.

Q. It is also correct that you do not know when you began purchasing from Jones & Laughlin?

A. I could not tell you that exactly; I haven't that record with me.

Q. You do not remember just when they began to make rods?

A. Oh, they have been making rods for years.

Q. You do not know the year they began?

A. No, sir.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Is there any doubt in your mind that you get the benefit of genuine competition for your purchases?

Mr. Colton: Just a moment. I object to that on the ground that it calls for a state of facts or the absence of facts that may be present in the witness' mind, and for a conclusion on those facts not disclosed to the court.

Mr. Reed: How could there be an absence of facts present in the witness' mind?

The Witness: I do not think so; we aim to, do our best to get it, and feel that we do get it.

CHARLES S. RINDSFOOS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. Brooklyn, New York.

Q. What is your occupation?

A. Secretary of The Foundation Company.

Q. How long have you been secretary of that company?

A. Only the past year.

Q. Prior to this year what was your occupation?

A. Purchasing agent and city superintendent.

Q. Of the same company?

A. Yes.

Q. How long did you have that position?

A. About three years.

Q. When did your experience with The Foundation Company begin?

A. 1906.

Q. How long have you been familiar with the purchases of steel supplies that that company has made?

A. Since 1909.

Q. What does The Foundation Company do?

A. General contracting work.

Q. Particularly the building of foundations?

A. Foundations of buildings and bridges.

Q. Tell us some of the important jobs in this neighborhood your company has done in the last few years.

A. Well, we did this building, for one, and we did the Woolworth Building and the Singer Building, and the Bankers Trust.

Q. You do not mean that you built the whole building, but just the foundation?

A. Just the foundation.

Q. Do you use any considerable quantity of steel products?

A. We use in the neighborhood of 2,000 tons a year, of all kinds.

Q. What kinds do you buy?

A. Steel sheet piling, as we call it, reinforcing bars, miscellaneous plate work, and fabricated work, cast iron work, and a multitude of smaller articles.

Q. Speaking of steel piling, that is this rolled material that is interlocked or connected in some way to serve in the place of wooden piling?

A. That is right.

Q. Used for shoring, and that sort of thing?

A. Used for holding up embankments, and that kind of work.

Q. About what tonnage of that do you use a year?

A. From 800 tons to 1,000 tons a year.

Q. From what companies do you buy it?

A. We have bought from Carnegie and from the Lackawanna Steel Company; I think we bought a little from Jones & Laughlin, but I would not be positive of that. We have received bids also on what is known as the Friested, which is a different type of the same thing.

Q. That is rolled by the Cambria Steel Company?

A. I believe it is the United States Steel Company; we have always understood it to be, but I am not sure of that. We have also bought the Wemlinger, which is Cambria, I think.

Q. The Wemlinger is Cambria?

A. Yes.

Q. Do you ask for quotations from these different concerns before you let your contracts or award your orders?

A. We usually do.

Q. How do you find that the prices on this material range; are they uniform, or do they vary?

A. Except in rare instances, they vary.

Q. Except in rare instances?

A. Yes.

Q. Is it your custom to tabulate these competitive bids that you receive?

A. Most of them are tabulated.

Q. Have you made any effort to find the tabulations of your bids on steel piling?

A. I have.

Q. Did you find the tabulations of bids that have been received since you became purchasing agent in 1909?

A. Yes, I have those.

Q. Have you them with you?

A. Yes.

Q. Will you produce them, please?

A. Yes. (Producing papers.)

Mr. Reed: I would like to have these marked.

(The collection of papers, bound together, was marked "Defendants' Exhibit No. 142.")

By Mr. Reed:

Q. I show you Defendants' Exhibit No. 142 and ask you what that is.

A. A tabulation of bids on sheet steel piling.

Q. Exhibit 142 appears to be a copy of other papers; are those correct copies of these original sheets?

A. They are.

Q. Compared by yourself in most instances?

A. And in each instance, even including where I compared them myself, by two others.

Q. Who checked up your comparisons?

A. I had them written by a stenographer, and compared them, with one of the boys in my office, who also compared them with another man in the office.

Q. I call your attention to these original sheets, of which Defendants' Exhibit 142 is a collection of copies, and ask you who made up those original tabulations.

A. They were made up by various people in my office, but in each case, before an order was placed, or before they were put on file, I examined the tabulation with the attached bids, where there were any, so that they went, really, through my hands before they were finally filed.

Mr. Colton: Is that all in connection with Defendants'

Exhibit 142, or are these merely verifications of Exhibit 142? These are originals and Exhibit 142 consists of copies?

MR. REED: Yes.

By MR. REED:

Q. Then these originals which you produce, of which Exhibit 142 is a copy, are the original tabulations made at the time the bids were received?

A. That is right.

Q. On the first page of Exhibit 142 I notice a tabulation, Mr. Rindsfoos, of some statistics as to the number of firms bidding, extent of variations, and so on. Who prepared those figures?

A. I prepared those.

Q. Personally?

A. Yes.

Q. Do you believe them to be correct?

A. I do.

Q. They were prepared for our convenience, were they?

A. I prepared them primarily for my own convenience because I thought I might be asked certain questions with reference to the matter contained there, and I wanted to post myself a little bit before I came up, to refresh my memory.

Q. But in each instance the statistics that are given as to the number of firms bidding, the number of competitive bids and the number of cases where two bids are identical, are based on the sheets which are attached to this exhibit?

A. That is correct.

Q. And can be verified by the attached sheets?

A. That is right.

Q. Now, in addition to sheet piling you say you buy a quantity of concrete reinforcing bars. Have you similar information prepared with regard to concrete reinforcing bars?

A. I have. (Producing papers.)

(The papers referred to were marked "Defendants' Exhibit No. 143.")

By MR. REED:

Q. Do the prices that you receive on concrete reinforcing bars vary in the same way as on steel piling?

A. They do.

Q. I suppose there is a larger number of concerns making bars than there are making pilings, is there not?

A. I would say there was, yes.

Q. How many different concerns have you asked for quotations on bars during the past four years?

A. That is pretty hard to say, but at least the number noted here. There are 29 firms noted there, and I have asked for a certain number of bids, but which I have not found the tabulations included there—there are at least twenty-nine.

Q. Have you the original papers from which these copies which make up Exhibit 143 have been prepared?

A. Yes; you will find them there.

Q. And you have compared Exhibit 143 with the originals in the same way as you compared Exhibit 142 with its originals?

A. I have.

Q. You believe them to be correct copies?

A. They are correct.

Q. You also get competitive quotations on fabricated steel?

A. We do.

Q. Do you find variations in bids there?

A. We do.

(A collection of papers was here marked "Defendants' Exhibit No. 144.")

By Mr. Reed:

Q. I show you Defendants' Exhibit No. 144 and ask what that is.

A. That is what we call miscellaneous stuff, angles and beams and channels.

Mr. Colton: That is all fabricated?

A. No, plain and fabricated. That is the way we divide it in our office. I do not know whether that is the way you would divide it.

By Mr. Reed:

Q. Have you compared these copies again with the originals?

A. In the same manner as the others were.

Q. And you believe them to be correct?

A. I do.

Q. And you have the originals here in the court room?

A. Yes, sir; these are the originals.

Q. Mr. Rindsfoos, do you follow the prices that are quoted in the Iron Age on such materials as these?

A. Not very often.

MR. COLTON: I was going to object, but I guess it is not worth while, in view of the answer.

By MR. REED:

Q. I ask you now to take some of these quotations on bars, Mr. Rindsfoos——

MR. COLTON: What sort of bars?

MR. REED: The only kind of bars he has been testifying about, concrete bars.

By MR. REED:

Q. I find in Government Exhibit Walker No. 246, Volume V, Part 1, page 1653, a chart showing prices of steel bars at Pittsburgh for a number of years. I find that at one period in the latter part of the year 1910, and the first part of the year 1911 the price of bars appears to have remained stationary at $1.40, Pittsburgh. What is the freight from Pittsburgh to New York on steel bars?

MR. COLTON: I object to that on the ground that the witness is not shown to be qualified to answer.

THE WITNESS: I always understood it to be 16 cents.

By MR. REED:

Q. So that the delivered price at New York would be $1.56 on a Pittsburgh base of $1.40?

A. It would.

Q. Have you any quotations on bars submitted during this period, the latter part of 1910?

MR. COLTON: I further object to any comparison between these exhibits on the ground that it is not shown that they are the same character of bars.

THE WITNESS: These quotations here are for the latter part of 1910.

By MR. REED:

Q. That is, this sheet showing the bids on reinforcing bars for the Woolworth Building in November, 1910.

A. Yes, sir.

Q. Were all the prices quoted to you on plain bars based on the $1.56 price?

A. We have prices above and below that.

Q. How far below that $1.56 price did any bidder go?

A. $1.46 I think is the lowest on steel bars.

Q. What is the highest?

A. $1.76, according to the record.

Q. What kind of bars were called for by those bids?

A. Soft steel; we specify that; that is what we always specify.

Q. Does that quality of steel command a higher price than the standard steel bar, or is it of the standard?

MR. COLTON: That is objected to on the ground it is not shown that the witness is qualified to answer that question.

THE WITNESS: Does soft steel take a higher price than what kind?

By MR. REED:

Q. The standard bars that are quoted in the trade papers, if you know?

A. We do not follow the trade papers.

Q. Do you know whether any extra price is charged for bars of this kind by the different manufacturers?

MR. COLTON: I object on the ground that the witness has not been shown to be qualified to answer.

THE WITNESS: We only buy three grades of bars, what we call high carbon steel, mild steel and iron. We generally pay the highest price for the mild steel.

By MR. REED:

Q. Do you know what kind of steel was specified for in this Woolworth job?

A. We used mild steel for the Woolworth building.

Q. That is the highest priced kind of bars that you buy, covered by these quotations, is it?

A. Yes.

Q. I see here a tabulation of bids on bars for the Zinn Building, October 21, 1910. Where is the Zinn Building, Mr. Rindsfoos?

A. 25th Street and 11th Avenue.

Q. New York?

A. New York City.

Q. Are these quotations on bars for the Zinn Building quotations of the price delivered at the job or delivered at New York?

A. Delivered at New York and the job both; the price is both ways.

Q. According to this same Government Exhibit 246, the price of bars at Pittsburgh on October 21, 1910, appears to have been still at the same figure, $1.40, which, with the 16 cents freight rate would be $1.56 New York. Did any of the bidders bid under that figure?

Mr. Colton: I object to any reference to the Government Exhibit, on the ground that it is not shown the character of bars is comparable.

The Witness: We have bids both above and below.

By Mr. Reed:

Q. What kind of steel was called for by those bids?

A. I don't think there was any specification on that job, as in the case of the Woolworth Building, although I am not certain now.

Q. What quantities were called for there, in this Zinn Building?

A. About fifteen tons, on that job.

Q. I neglected to ask you as to the statistics which appear on the first pages of Defendants' Exhibits 143 and 144. Those were prepared by you, were they?

A. Yes.

Q. For the same purpose as the statistics that accompany Defendants' Exhibit No. 142?

A. Yes. The cover sheets on each of those groups were prepared by myself.

Q. I notice in each of the three groups, that is to say, each of the three exhibits, Nos. 142, 143 and 144, an item "number of cases of identical bids." By that wording just what do you mean, Mr. Rindsfoos?

A. If I asked for two bids and they were both the same I would call that a case of identical bids.

Q. But suppose there were six bidders on any particular job, and five of them bid the same price. I am just assuming that as a case.

A. I would call that four identical bids.

Q. You would call that four cases of identity of bids?

A. Yes, sir; take any one of those five and it would be the same as any one of four others.

Q. But, assuming that there were such a case as I have indicated, you would put that in as four cases of identical bids, would you?

A. That is right.

Q. Not as one case?

A. That is right.

Q. I see that you give, in each sheet, an item of the number of separate bids received, or the number of bids represented, or the number of competitive bids received—the language differing with different exhibits. That does not mean, I assume, the number of jobs on which you received bids?

A. No, sir. Where I say "Number of bids received," that means every time I have a quotation from a man I call it a bid. Where I say "Number of competitive bids," I mean the number of times the bids received were in competition. Sometimes I place orders asking only one person to figure. That is not a competitive case.

Q. And in the case where you only ask a quotation from one source of supply, you do not consider that a competitive bid?

A. No.

MR. REED: We offer in evidence Defendants' Exhibits 142, 143 and 144.

MR. COLTON: I reserve the objection until after the cross examination.

(The papers referred to were thereupon marked respectively, "Defendants' Exhibits (Rindsfoos) Nos. 142, 143 and 144, November 26, 1913," and will be found in the volume of Defendants' Exhibits.)

CROSS EXAMINATION

By MR. COLTON:

Q. What sort of bars do you buy?

A. As I explained a moment ago, we buy bars for reinforcing concrete.

Q. What shape are these bars in?

A. Twisted, corrugated, plain, round, square—several different shapes.

Q. Are they known also as deformed bars?

A. They are.

Q. In what different sizes do you buy these reinforcing bars?

A. The smallest I remember buying are quarter inch and the largest I remember buying are inch and a quarter.

Q. You put special requirements on a great many of your purchases, do you not?

A. We do.

Q. On the majority of them?

A. It depends on what you mean by special requirements. We have an order filled out for every bill that we buy.

Q. Does that specify the amount of carbon?

A. Not always, no.

Q. Does it do it often?

A. Usually we do not specify that way. We specify quite often that they shall stand a certain breaking strain, or have a certain ultimate strength with a certain factor of safety. That satisfies the contractors' practical needs better than chemical analysis.

Q. And you specify as to the particular strength of these particular bars that you need? Is that the usual custom?

A. That is the usual custom excepting in very small orders sometimes we do not do that.

Q. Do you buy any structural material?

A. Very little.

You mean by structural material, material for the building itself?

Q. I mean structural shapes.

A. We buy, as I explained a little while ago, and as shown on these miscellaneous sheets here, all sorts of angles and channels and Z's, standard forms of that sort.

Q. Are they fabricated?

A. Sometimes; sometimes plain.

Q. What percentage is fabricated?

A. I could not say offhand, without looking it up, exactly. I can make a guess, if you want a guess.

Q. No; I do not want a guess. Do you have a recollection that the majority of it is fabricated when you buy it?

A. Of this particular group here, you mean?

Q. Yes. You had better designate it a little more fully. I understood that to be angles and channels.

A. And Z bars.

Q. Of that class what percentage, to the best of your recollection, is fabricated when you buy it?

A. As I say, it is only a general impression that I can give you, as I have never tabulated that, and never had occasion to want to know that; I should say somewhere between 50 and 75 per cent. of that particular class is fabricated.

Q. What period of time does Exhibit No. 144 cover?

A. From 1909 to 1913.

Q. Does it cover all of your purchases of plain and fabricated material during that period?

A. I cannot say that it does.

Q. But they are merely selected items?

A. They are not selected. They are those which we had tabulated.

Q. They are those which you had tabulated, but they are not all your purchases?

A. No; but they are a majority of them. In fact, I would almost swear that it was eighty per cent. or more of them.

Q. Did you tabulate all of these yourself in the first instance; I mean the originals?

A. I did not do all the penmanship on them, but I compared the original tabulations with the confirmations, to see that they were the same.

Q. But what I want to know is whether you made the original tabulations or not?

A. Just what do you mean by making the tabulations?

Q. Did you take them from the original bids yourself?

A. Did I do the actual writing?

Q. Did you give it to a stenographer?

A. It was done by one of my assistants, or a stenographer under my direction, but I cannot say that I did all the actual writing myself. I did, however, compare them after they were written, with the confirmations.

Q. Have you all the different bids upon which this tabulation is based here in court?

A. I have the original of each one of these copies in one of those folders there.

Q. Now, the original itself is not the original bid of any company that you have here in court?

A. In a great many instances the original bid is attached; this is the Morgan Building, with the confirmation from the man who made the bid.

Q. Have you present in court all of the original bids?

A. I have all of the original bids which go with this sheet which the company possesses; there are cases where we have asked for a quotation, and make a note of it on the tabulation, and the bidder fails to send in a confirmation. We attempt to get them for all cases, but we do not always succeed.

Q. What do you mean by a confirmation?

A. I call this a confirmation: If a man telephones a price or comes in and gives us a price of $1.50 and verifies it afterwards, that is a confirmation.

Q. Then there are other bids that you have not here where they were made orally?

A. If they were they are on this tabulation.

Q. Yes, but are you positive that there are no written bids that do not accompany those papers, that you have all the written bids that you received at any time?

A. You mean if there are three confirmations and four figures that we might not have one?

Q. No; but do you yourself know that you have all the original bids to which these compilations relate? These are called compilations or tabulations of the bids, are they not?

A. I would be glad to answer that if I could get at just what you mean. If I explain the system to you that we have adopted that would explain it.

Q. Go ahead.

A. If we go into the market for a certain article we ask for a certain number of quotations; we make out a list of the people that we intend to ask. We sometimes ring them on the phone, and sometimes ask them to come in, and as they give us these figures verbally or on the phone they are noted on these tabulated sheets. We invariably ask——

Q. Now, you say "we." I wish you would say what you did in regard to this.

A. My assistant does this.

Q. Wherever you did a thing, you say you did it, and when your assistant does it, you say your assistant, so as to keep it straight.

MR. REED: Let him finish the answer he was about to make.

THE WITNESS: Wherever they sent a quotation, verbally or on the phone, either myself or my assistant notes it at once on this tabulation. We invariably ask for a confirmation to follow in order, if we decide to place the order with one of these concerns, that they will not be able to "backslide," as we call it, or refuse to make good on their quotation. Sometimes they come in and sometimes they do not; usually they do.

As they come in they are attached to this tabulation, so that if I give you a tabulation with ten bids and five confirmations, it means that, to the best of my knowledge, that is all the confirmations the company ever got; there may be one

or two instances out of a thousand where they have failed to be attached to these tabulations.

By Mr. Colton:

Q. Let me see if I understand you. There may be more bids than you have down on this paper, because you put down here only those bids which you have confirmations of?

A. No, that is not so; we put it down here as soon as it is received, whether verbal or written.

Q. Whether it is confirmed or not?

A. Whether it is confirmed or not.

Q. You do not put them all down yourself, do you?

A. No, I do not.

Q. And you are not present when some are put down, are you?

A. I am not present when some are put down, but I am, usually; I am 990 times out of 1,000 present when the order is placed.

Q. Then you are present when you come to get all these quotations and compare them with one another?

A. When it comes to "talking brass tacks" with the dealers, yes.

Q. I notice in regard to the bids on the Zinn Building, October 21, 1910, that you have specified different times of delivery, and the times of delivery are different for the different makers; that is true, is it not?

A. We do not specify their different times for delivery. We ask the dealer to tell us what is the best delivery he could make.

Q. Then the bid was accompanied with a special time for delivery?

A. That is right.

Q. That is specified on the exhibit; is that right?

A. That is right.

Q. And the total amount of tonnage in reference to this particular building here—reinforcing concrete bars, is it?

A. That is right.

Q. That is 15 tons?

A. Yes.

Q. Is that all the reinforcing tonnage that went into that building?

A. All that went into our part of the contract. We did not have the whole building; we had the foundation work.

Q. That is a very small quantity of steel, is it not?

A. A very small quantity of steel.

Q. That is a sort of hurry-up order?

A. I don't know what you mean by "hurry-up order."

Q. That is a small order, for which time was an element?

A. It is a small order that we have there; it is a large order compared with a job that takes one ton.

Q. What is the size of these bars?

A. It is stated on the tabulation there.

Q. Will you show me?

A. Three-quarters and five-eighths; right here.

Q. What does that three-quarters mean?

A. Three-quarters of an inch square and five-eighths of an inch square, diameter.

Q. Do you know what the base size in this particular reinforcing bar is?

A. Three-quarters of an inch.

Q. The different manufacturers that you put down there: what is the Pierson Company?

A. The Pierson Company is not a manufacturer.

Q. That is a jobber?

A. Jobber, dealer.

Q. What is Pardee?

A. Pardee has been so many things in the last three or four years that I do not know what he was at that time.

Q. He may have been a jobber, for all you know?

A. He may have been both at that time.

Q. What is Kiley?

A. Kiley is a dealer.

Q. What is Larkin?

A. A dealer.

Q. What are Voght & Williams?

A. Dealers.

Q. Ogden & Wallace?

A. Dealers. The Buffalo Steel Company is a manufacturer.

Q. How many manufacturers are there quoting on that particular delivery?

A. I cannot answer that because a great many of those dealers figured right with the manufacturer.

Q. I know, but how many of those you have down here are manufacturers? Can you name them to me?

A. There is only one I will swear was a manufacturer. Pardee may have been one at that time.

Q. The Buffalo Steel Company, then, is the only manufacturer that you know on that list?

A. On that particular list, yes.

Q. And its bid was $1.51—what are the two bids there, $1.51 and $1.54?

A. I might be able to tell you that if I had the original; there is not so much detail on that.

Q. Suppose you tell me, first, whether you can tell me from this, because this is what is being offered in evidence.

A. As I remember that job now, there was a difference there, if we wanted them twisted. I think that was the difference. I think they asked three cents differential for twisted.

Q. Some of the bars on this exhibit, you wanted them twisted?

A. We did not specify that, but some dealers or manufacturers would volunteer two different prices for two different things whether you asked for it or not, and we ordinarily put down everything we got, whether we need it or not.

Q. There do not appear in regard to this particular building two quotations from any of the large manufacturers of steel?

A. I call the Buffalo Steel a large manufacturer.

Q. You don't know whether it is or not, do you?

A. I say I call them large, comparatively.

Q. Do you have any idea of what tonnage the Buffalo Steel Company is getting out?

A. Only from the fact that I have put up to them at

various times certain orders and got them very promptly. I do not know their tonnage.

Q. You do not know anything about their size further than that they handle your orders promptly at times?

A. That is correct.

Q. And would this be called a prompt shipment?

A. Anything under six weeks for a mill is prompt shipment.

Q. The Buffalo Steel quotes on ten days?

A. It depends on the rollings. If they have a rolling going through we get it quicker.

Q. What is the character of steel specified in this particular building, reinforced concrete?

A. I answered that question a moment ago. I stated I did not remember any specification being given on that building for mild steel.

Q. You don't remember what the specifications were?

A. No, sir; not on that job.

Q. Now, take the one of November, 1910, on the Woolworth Building. Name the companies on that exhibit which are manufacturers of the particular kind of steel bars there called for?

A. You ask me to name the different manufacturers?

Q. Yes, as distinguished from the jobbers, so far as you know them?

A. I would say that any of those companies made bars which would satisfy the specifications, if that is what you mean.

Q. Let us go through that. Is Pierson & Company a manufacturer of bars?

A. No, they are not manufacturers.

Q. Was Pardee a manufacturer at that time, so far as you know?

A. I could not say.

Q. Is the Ogden Iron & Steel a manufacturer?

A. They were at that time, yes.

Q. What has become of them?

A. They have sold out recently to the Steers people. I

do not know what they are doing now. I think they only are manufacturing bolts now.

Q. McCoy?

A. A dealer.

Q. Kiley is a dealer?

A. Yes, sir.

Q. Carnegie Company is a manufacturer?

A. Yes, sir.

Q. And quoted $1.56?

A. Yes, sir.

MR. REED: That is Pittsburgh base plus 16 cents freight.

By MR. COLTON:

Q. At what date is that contract?

A. November, 1910.

Q. That would be $1.40 Pittsburgh, according to your calculation?

A. Yes, sir.

Q. Of course you do not know the freight rates yourself?

A. I do know the freight rates.

Q. You do not know them of your own knowledge?

A. I do, from talking with the railroad people and asking the rates, and paying freight bills.

Q. What is the Corrugated Bar Company?

A. That is practically the Lackawanna Steel Company.

Q. Is the Corrugated Bar Company a subsidiary of the Lackawanna Steel Company?

A. I could not say what the relations are further than they are shipped by the Lackawanna and made and rolled by the Lackawanna. The only thing we know of the Corrugated Bar is that we make a contract with them occasionally and pay them the money, but all our actual dealings are with the Lackawanna.

Q. Isn't the Corrugated Company a selling agency of some sort?

A. I cannot say what their agreements are.

Q. You do not know but what they are general dealers in bar steel, do you?

A. I do not believe they are, although I could not prove one way or the other.

Q. They may be dealers?

A. Yes.

Q. But the steel you have gotten from them has come from the Lackawanna Company, is that right?

A. That is right.

The same is true of Faitoute, in connection with the Franklin Mills.

Q. I notice that the Faitoute quotes $1.56 and $1.46. Do you know what that means?

A. Yes; they are quoting on two different bars there.

Q. What different bars were asked for there?

A. The bottom one, $1.56, is mild steel; the other is high carbon steel.

Q. The mild steel, you have quotations from Faitoute for $1.56 and from Carnegie for $1.56?

A. Yes; that is correct.

Q. And from Pierson & Company for $1.56?

A. Yes, that is right.

Q. And on those you say you do not know who Faitoute represents, or whether he is a manufacturer or not?

A. I say he has the same arrangement with the Franklin Mills that the Corrugated have with Lackawanna.

Q. I do not know whether I asked you about the Scovil Iron & Steel Company. What is that?

A. I would call them dealers.

Q. I notice they have "f. o. b. unless whole order." What does that mean?

A. Unless the whole order is given.

Q. $1.55 unless you give them the whole order?

A. Yes.

Q. What was the tonnage in this?

A. That particular column there, straight bars, there were about 55 tons. These bars here are about 7 tons, and those bars (indicating) about 2 tons.

MR. REED: I think you stopped him when he was explaining about that Scovil order. $1.55 for the item of straight bars

unless they get the whole order, when the quotation was $1.50 on straight bars. Was that what that meant?

THE WITNESS: That is right.

By MR. COLTON:

Q. What is that $1.46 in here? I may have asked you that, but I have lost it out of my mind.

A. I said that was high carbon steel, and the other is mild steel.

Q. That is a different steel?

A. Yes, sir.

Q. Now, on the different quotations, those running $1.56, give the number of jobbers and manufacturers on the soft steel; that is the highest priced steel, isn't it?

A. Yes, sir.

Q. On the soft steel, give the number of jobbers and manufacturers on the soft steel bars that run $1.56 or over, giving first those that run $1.56 and naming those that run over $1.56.

A. You want me to name those?

Q. First all those that run $1.56.

A. Pierson & Company, $1.56; Carnegie, $1.56; Faitoute, $1.56.

Q. And that would be for bars on Pittsburgh base, according to your calculation $1.40?

A. $1.40.

Q. And that would be in November, 1910?

A. Yes, November, 1910. Do you notice the order we gave, however, was for less than that of mild steel to a dealer? We placed the order with McCoy at $1.50, which was less than $1.40 Pittsburgh, and it was mild steel, the high priced steel, so with the dealer's profit out of that would make it less than $1.40 Pittsburgh.

Q. You gave it to McCoy, did you?

A. Yes.

Q. And they quoted $1.55 on soft——

A. No; one bid was $1.55; three-quarters, $1.55.

Q. Three-quarters, $1.55? Is three-quarters the base size in this particular kind of reinforcing bars?

A. Three-quarters is the base; anything above three-quarters. Three-quarters on bars, up to three inches in thickness, is the base price.

Q. And you say you do not know whether the bars are the same bars upon which you have quoted prices from the Iron Age or not?

A. I do not know what you have got in the Iron Age, but I know these are what we call mild steel; the highest price bars we buy.

Q. What is the chemical analysis of that soft steel bar?

MR. REED: You mean in carbon?

By MR. COLTON:

Q. In carbon, sulphur——

A. I cannot give you the chemical analysis of them, but I can tell you their breaking strength, and that is the thing that means the most to us.

Q. Did you ask for a particular breaking strain?

A. 64,000 pounds breaking strain.

Q. Was that one of the requirements that you had, and was that requirement specified in asking for quotations?

A. That is right.

Q. Is that true of all of your bar requirements?

A. No; I did not say that.

Q. Is it true? The best thing to do would be to take up these soft steel bars—take that exhibit and pick out the different soft steel bar quotations you asked for in there.

A. I cannot give you, out of my head, each and every job, where there are some 29 firms and 220 bids received; I cannot tell you each and every one where we had that specification.

Q. Then it does not appear on this exhibit what they were, does it?

A. No; I cannot give you the history of the job from that one thing. I could look that up and determine it for you.

Q. I do not expect you to do that amount of work, but there is nothing in this exhibit to show whether you called for some special strain or not, is there?

A. No; that does not show on these sheets.

Q. That does not appear here?

A. No. The specifications indicating breaking strain do not appear on those sheets.

Q. And you did have such specifications in respect to bars very often?

A. Very often we did.

Q. In the majority of instances?

A. That is right.

Q. Also, the number of these that were prompt orders, within your definition of prompt orders—within six weeks or less, I believe?

A. Most of our orders are six weeks or less shipments, yes.

Q. What percentage of your steel is of this character that you call soft steel bars?

A. I should say the majority of our steel is mild steel or soft steel.

Q. And in respect to that, in addition to having that name for it, the majority of that is purchased by giving a specification as to a certain amount of breaking strength?

A. That is right. That is the only thing we are interested in, in the use we put the bars to.

Q. There is no way that I can take this up and find out what strain there is in reference to these different bids here, is there, in regard to steel bars, as to what strain you required, or what strain you did not require?

A. It does not show on those bids, no.

Q. What connection did you have with the purchases in 1908 of reinforcing bars?

A. I did not buy bars for the company in 1908, excepting on the particular work I happened to be on; that is, I was not purchasing agent for the company at that time.

Q. Then the tabulations for 1908 were not done under your immediate direction at that time, were they?

A. It so states there.

Q. That may be, but I want to know whether that is a fact or not.

A. That is a fact.

Q. How about 1909?

A. I began to buy for the company in the early summer of 1909. Any bids shown after that date, unless marked otherwise, were bought under my direction.

Q. But you did not do all the tabulation?

A. I did it in the way I have explained twice, a little while ago.

Q. I just asked as to the fact. You did not do it all yourself?

A. I did not do all the writing on the paper myself, but I examined them all with the confirmation.

Q. And your assistant at times received these bids?

A. That is right.

MR. COLTON: I object to Defendants' Exhibit 143 on the ground, first, that it is immaterial; second, on the ground that it is not prepared in whole by the witness, and that it is therefore incompetent; also that he is not shown to have such connection with it as to make it competent evidence. I object to Defendants' Exhibit 144 on the same ground.

By MR. COLTON:

Q. I wish you would take Defendants' Exhibit 144 and pick out the different bids that relate to plain material.

A. I would call plain material that first one.

Q. You had better give the date of it.

A. May, 1913.

Q. That is plain material?

A. I beams and channels.

Q. May, 1913?

A. Yes.

Q. What is the National Bridge Company?

A. They are fabricators over in Long Island City. They carry a stock. We sometimes ask quotations from them, knowing they have a stock.

Q. They carry a stock of plain material?

A. Yes. So also with the Dover Boiler Works.

Q. What manufacturers of plain material are there on that exhibit, if any, other than the Carnegie Steel Company —not on that exhibit, but on the bids of May, 1913?

A. For the Morgan Building, May, 1913. That is the only one; the only steel rolling mill.

Q. Then you have no quotations from manufacturers other than the Carnegie Steel Company on plain material for May, 1913, on the Morgan Building? Is that right?

A. That is right; but one of the dealer's prices was lower than that of the manufacturer.

Q. Will you now pick out the next plain material that you find?

A. Part of that is plain and part of it is fabricated.

Q. Referring to April, 1913, Morgan Building, you say part of that steel work is plain and part of it is fabricated?

A. Cutting edges, labeled "C. E.," fabricated, and the cofferdam angles are plain.

Q. Are there any manufacturers bidding on that exhibit?

A. Not manufacturers in the sense of rolling mills, no.

Q. All right, pass it. Take up the next.

A. The same definition applies to that; cutting edges fabricated and cofferdam angles plain.

Q. What rolling mill manufacturers are those that actually roll the plain material, appearing on October, 1911?

A. There are none on that list.

Q. Will you look on this and find the next case where you got quotations on plain material?

A. All of these bids have some plain material; you can pick it out here; cutting edges fabricated and cofferdam angles plain; and concrete forms, that would be fabricated. All of it would be fabricated except the cofferdam angles on that sheet.

Q. Are there any manufacturers that bid on that work for October 2, 1911? If so, give them.

A. No, sir; there are none.

Q. Take the next, October, 1912. Just indicate which are fabricated on the Equitable sheet for October.

A. It does indicate which is fabricated and which is raw.

Q. Any manufacturers?

A. No.

Q. Take the next sheet, the Western Union, 1913.

A. That is fabricated.

Q. Any manufacturers?

A. No.

Q. Take the next, the Scotia Dam, July, 1912.

MR. REED: By "manufacturers" you mean rolling mills?

MR. COLTON: Yes, rolling mills.

THE WITNESS: No manufacturers.

By MR. COLTON:

Q. You got no bids from manufacturers for plain material?

A. That is correct.

Q. Air Lock platforms, June, 1912?

A. All fabricated.

Q. Channel iron, 8/17/12?

A. That is plain.

Q. The only manufacturer bidding on that was the Carnegie Steel Company?

A. That is right, but they were bidding in exactly the same relation as Ryerson in the sense that it was both out of stock.

Q. But they were the only manufacturers bidding?

A. Yes.

Q. The St. Louis Building, April 27, 1912?

A. All fabricated.

Q. The Guaranty Trust Company Building, October 9, 1912?

A. All fabricated.

Q. Cofferdam angles, September 13, 1911?

A. Plain.

Q. Any manufacturers bidding on that?

A. No.

Q. Steel work, September 12, 1911? What is plain and what is fabricated?

A. All fabricated.

Q. Mohawk, Ice Breaker, August 18, 1911?

A. That is what you call fabricated.

Q. Steel work, Woolworth Building, April 11?

A. Both plain and fabricated.

Q. Will you pick out the plain?

A. Cofferdam angles; the rest all fabricated.

Q. A cofferdam angle; that is a particular form of construction of steel?

A. We simply give it that name by reason of the place we use it; it is nothing but angles, but we use it for cofferdams, and call it that.

Q. What manufacturers bid on that plain material, April, 1911?

A. I do not see any there.

Q. You got no bids from manufacturers?

A. No.

Q. The Woolworth, November 10th? Is that fabricated?

A. All fabricated.

Q. Woolworth, November 10th; cofferdam plates. They are fabricated, are they?

A. You would call them fabricated.

Q. No, not what I would call fabricated, but what you call fabricated?

A. You have not told me your distinction, so I will say that is what I would say, fabricated.

Q. Steel, 5/20/10, Bankers Trust; cutting edges and bent angles; what is fabricated?

A. That is all fabricated.

Q. Cofferdam angles, Bankers Trust, May 10, 1910. What is that?

A. I would call those fabricated.

Q. Municipal Building, steel work; is that fabricated?

A. All fabricated.

Q. Fidelity Building, April 17, 1909; what is that?

A. I would call that fabricated.

MR. REED: Don't those papers speak for themselves?

MR. COLTON: No, they do not show what they are. There is very little plain material in here that I can find that is taken from manufacturers, and that is what I am showing from it.

By MR. COLTON:

Q. Concrete steel caissons, concrete forms and angles, Bryant Building; is that fabricated or not?

A. Some fabricated and some plain, and I could not pick out from that sheet which is which.

Q. Nobody could tell from looking at that sheet?

A. Yes; I could tell you there was some of each, but not how many pounds there was of one and how many of the other.

Q. And the bids are not separated?

A. No; that is a lump sum bid.

Q. A lump sum bid on fabricated and plain?

A. Yes.

Q. Is there any manufacturer of plain material there bidding?

A. Not unless you call Jones & McKee manufacturers.

Q. Do you know whether Jones & McKee had a rolling mill at that time?

A. I couldn't tell you now. That is not one of my bids; it is one I have taken out, but I didn't place that order.

Q. Woolworth, November 10, steel?

A. Fabricated and plain both, there.

Q. Is it separated?

A. I would call the cofferdam angles and connection angles plain and the balance fabricated.

Q. Are there any manufacturers of plain material bidding there?

A. No.

Q. Referring to Defendants' Exhibit 144, is there any manufacturer of plain material other than the Carnegie Company bidding in that entire group of bidders?

A. Not in that group, no.

Q. So Defendants' Exhibit No. 144 does not show anything as to identity of bids as between the rolling mills bidding directly themselves, does it?

A. Only one rolling mill bid on plain material in those bids.

Q. What manufacturers bid on this reinforcing bar; when you get to one on which a manufacturer bid, then call my attention to it?

A. The American Steel & Wire Company.

Q. Referring to Defendants' Exhibit 143, the first case in which any manufacturer bid is in reference to——

A. No, the first case is Carnegie.

Q. Yes; suppose you give the first case in which there is more than one manufacturer bidding. Take the question this way: Take Defendants' Exhibit No. 143 and begin with the first page of the same, to wit, with February, 1913, "reinforcing bars," and designate the first one of the bids on material in which more than one manufacturer bid?

A. Jones & Laughlin and Carnegie.

Q. In order to make that clear, the first case in which you find there to be two bidders bidding is on September, 1912, for the Scotia Dam and their bids are identical, are they not, being Jones & Laughlin? Is that correct?

A. That is correct.

Q. Continue looking through there for bids by manufacturers, where there are at least two manufacturers bidding.

A. Yes.

Q. The second case in which you find manufacturers to be bidding is Scotia Dam, July, 1912, reinforcing bars. What are the manufacturers that bid on that?

A. I would call this Republic, Buffalo. I would call this Carnegie.

Q. Where is "Carnegie"?

A. That is the name of a certain type of bar that Carnegie makes.

Q. That is not Carnegie here. It is "El Cannes," isn't it?

A. El Cannes. That is the inventor of that bar. It is manufactured by Carnegie and sold by them.

Q. Do you buy those from Carnegie?

A. We do not buy it of Carnegie; we bought it from Ogden; did not buy it from any manufacturer.

Q. Do you know whether this quotation was gotten direct from Carnegie or not, this El Cannes quotation?

A. I have gotten quotations from Carnegie on that bar. I could not swear whether that particular quotation came from them direct or not.

Q. Then the only two manufacturers on that list are the Republic and Buffalo—is that right?

A. I said I did not consider El Cannes as a manufacturer of bars.

Q. You take that the same as Carnegie?

A. Yes, sir.

Q. And you say you do not know whether Carnegie made a bid on that or not, didn't you?

A. Carnegie would bid the same whether they bid or somebody else bid on that bar, whether they bid or Cannes bid, because it is made by Carnegie, for Cannes, the inventor.

Q. Then this is a special type of bar, isn't it?

A. Yes, a special type of bar.

Q. And this El Cannes bar is a special type of bar?

A. Special only in the sense that it is a different style of deform.

Q. Then the bids for July, 1912, the Scotia Dam, represented at least two different styles of forms?

A. We use either plain or deformed there, the specifications allowed either.

Q. This El Cannes is special, isn't it?

A. It is a deformed bar, yes; it is not special in the sense that it is any more special than a twisted bar.

Q. Well, Faitoute's is twisted and Faitoute's is the same as Carnegie, isn't it?

A. I did not say that.

Q. I ask you whether it is or not; is it?

MR. REED: You mean in price, or deformity or what?

By MR. COLTON:

Q. Look at it and see.

A. You mean the same price?

Q. Yes.

A. $1.41; they are the same, $1.41, there.

MR. REED: You did not ask him about the prices of other manufacturers.

MR. COLTON: I am coming to the other manufacturers. There are only two manufacturers so far.

THE WITNESS: The Republic is a manufacturer. But Faitoute is not a manufacturer.

By MR. COLTON:

Q. I notice that after the "Buffalo" there is a mark of re-rolled.

A. That is a high carbon steel.

Q. That means re-rolled?

A. That means high carbon steel.

Q. And that the Republic—there is no such mark—it is not described as re-rolled.

A. It is mild steel.

Q. It is a different kind of steel from the Buffalo?

A. That is right.

Q. And there is a difference in price in reference to this different kind of steel, isn't there?

A. There is a difference there, yes. I have known times when you could get higher prices on re-rolled, but usually it is less.

Q. And it is less here?

A. Yes, sir.

Q. So the only manufacturer bidding on reinforcing bars is the Republic, except those that bid on twisted bars, or those that bid on re-rolled bars; is that right?

A. Yes; but you cannot draw that comparison because deformed bars cost more, if anything, and the Republic on the plain is higher.

Q. But they are different characters of steel.

A. There is no difference in the steel at all between Republic and El Cannes, in the character of steel.

Q. And you say that El Cannes is a special type of bar?

A. I say it is only special in the particular form in which it is rolled, but there is no special difference in the quality.

Q. It is sold under a trade name?

A. It is sold as El Cannes, the same as Ransom sells the twisted bar and the corrugated bar; it is all the same stuff with different trade marks on it.

Q. It is shaped somewhat differently from the other bar, isn't it?

A. It looks very much like the corrugated bar. You can hardly distinguish it from the corrugated bar.

Q. And the corrugated bar given here is the same price as given by Corrugated Company for the Corrugated Company bars?

A. That is right.

Q. That is $1.41.

A. I would call that the Lackawanna bar.

Q. And that is the same as Carnegie has bid?

A. Yes. The reason I say you cannot tell much about these bids in the sense that you cannot see that there is the same price from the manufacturer—here is one manufacturer bids higher on a plain bar than another manufacturer bids on a deformed bar.

Q. On a different type of special bar?

A. No; that is a plain bar. Usually you get a higher price on deformed than on a plain bar, and here it is the reverse.

Q. Continue to go through Defendants' Exhibit No. 143 and pick out every one of the bid examples that you have here in which there is more than one manufacturer bidding on the particular quantity of steel called for.

A. There is one case, Carnegie, and Buffalo.

Q. Carnegie and Buffalo.

A. Yes.

Q. "Reinforcing, Woolworth, May 16, 1911"; you say there is a case. Will you tell us what is the case there. What are the manufacturers bidding and what are they bidding on?

A. You asked me to show you the next bid where two manufacturers were bidding. This is the next case.

Q. What are they bidding on?

A. It is all detailed on the list. I can read that.

Q. Do they bid on this soft steel bar?

A. Yes, I stated a while ago the Woolworth called for mild steel.

Q. Carnegie's bid is on El Cannes?

A. They bid on that, and they bid on plain bars.

Q. What did they bid on plain bars?

A. It depends on the details of the bar. That was a very common——

Q. (Interposing) Have you got any base size of plain bar there?

A. Well, there is 20,000 feet of one inch square.

Q. Is that base size?

A. Yes; that will take the base.

Q. What did they bid on that?

A. $1.56.

Q. That would be $1.40, Pittsburgh?

A. That is right.

Q. And what other manufacturer bid on that same bar?

A. The Buffalo Steel Company bid one and a quarter.

Q. Where is the Buffalo Steel?

A. Here (indicating).

Q. That is one inch square?

A. Yes.

Q. Do you know what the strain was on that bar?

A. I cannot say that I tested every bar. I bought them for the job, and delivered them there. My duty ended then.

Q. The Buffalo and Carnegie are the only two manufacturers on this list?

A. I would say so, yes.

Q. Find the next place on which there is a manufacturer.

A. You will note there also that a dealer is less than a manufacturer in his price.

Q. That was after the break in 1911 in the price of bars?

A. It was early in 1911; May, 1911.

Q. Yes. Do you know when the break came in 1911 in bars?

A. I remember three times when we consider bars were cheap.

Q. What were those three times?

A. 1909, 1911 and 1912.

Q. All right. Go ahead with the next place where there are more than two manufacturers bidding for bars.

A. There is the Carnegie and Buffalo again; Woolworth Building, March 28th.

Q. Woolworth Building? What sort of bars were being bid for there?

A. The Woolworth Building was all the same; it was all supposed to be mild steel on that job.

Q. Where is Carnegie?

A. There is Carnegie Steel, there (indicating).

Q. The Carnegie's bid was $1.50 where?

A. F. O. B. dock.

Q. What was the other company bidding?

A. Buffalo, $1.41, f. o. b. dock.

Q. Is the Buffalo Steel Company in business now?

A. I have not bought any stuff for some time from them. I don't know. I think they are.

Q. Will you continue and pick out wherever there are as many as two manufacturers bidding on the job? Is this an instance: "Reinforcing bars, March, 1910"? Do you find two manufacturers bidding, the Buffalo Steel Company——

A. I don't think those two bids are comparable.

Q. They are not comparable, being on different things?

A. One is plain and one is deformed.

MR. REED: Will you just contrast the plain and deformed prices, if there is any contrast?

MR. COLTON: You do not want to interrupt my cross examination, Mr. Reed?

MR. REED: No, but you do not want me to go back and start in the middle again?

MR. COLTON: All right.

THE WITNESS: What do you want me to contrast? Twisted bars really take the higher price, if that is what you mean.

MR. REED: Yes.

THE WITNESS: You will notice that all the way through. Here is another, Buffalo and Carnegie.

By MR. COLTON:

Q. Give the date. Is it "Reinforcing, Woolworth Building, November, 1910," and you find Buffalo and Carnegie to be the two manufacturers bidding?

A. Yes.

Q. And what sort of bars were they bidding on?

A. Mild steel bars.

Q. I think I have already had the bids given on that one.

A. I think so. That was the first one we went over.

Q. What is the next instance in which as many as two manufacturers bid?

A. Some of these we went over once, I think. Here is the Municipal. I did not place that order. I cannot tell you about that.

Q. There are not two manufacturers bidding there, are there?

A. Carnegie and Buffalo.

Q. Prior to July, 1909, you were not familiar with the different biddings, were you?

A. Further back I had nothing to do with the purchasing.

Q. This is the first one, July, 1909, the Municipal Building, with which you are familiar?

A. I said I was not familiar with that one.

Q. Oh, you were not familiar with that one?

A. No.

Q. August 3, 1910; is that the first one with which you are familiar?

A. It is the first one, excepting that one that is on the back, out of its right order.

Q. Let us have that one, then. Give the manufacturers that appear on that, September 14.

A. There are no two manufacturers on that.

Q. During the entire period with which you are familiar with the purchases as given in this exhibit, from August 3, 1910, to February, 1913, you have designated the only instances in which two or more manufacturers were to be found among the bidders, have you not?

A. That is right.

Q. The only two manufacturers you have found were the Carnegie and the Buffalo, with one exception, in which you found the Carnegie, Jones & Laughlin, and Buffalo? Is that right?

A. That is not right.

Q. Then will you explain to what extent it is not right?

A. I remember one case where the Republic Steel appeared.

Q. The Republic also bid in one single case?

A. Yes.

Q. Did Jones & Laughlin also bid in that case?

A. I think you are wrong.

Q. Yes, it was not Jones & Laughlin; it was the Republic.

A. Jones & Laughlin bid, but I do not think they bid in competition with the others.

Q. Now, as regards sheet piling, have you made the purchases for the entire period of time covered by Defendants' Exhibit No. 142, or was there a period with which you are not familiar, the same as is the case with reference to bars, and designate the period?

A. Previous to 1909 I am not familiar. There is one bid here in 1908.

Q. Are you familiar with the bids for the whole of 1909?

A. It is indicated here which bids I am familiar with and which I am not; I am familiar with them all, but I did not place the orders for 342 tons out of 4,000 tons.

Q. Now, the tonnage for 1908 and 1909 is practically negligible, is it not?

A. That is right.

Q. And 1910 and 1911, it is very small?

A. About 300 tons in 1910, and 230 tons in 1911.

Q. Is this steel sheet piling a special article?

A. I don't know what you mean by special.

Q. How many different companies make it?

A. Five that I know of.

Q. Do they have different brands of sheet piling?

A. They have different brands, yes.

Q. And different patents?

A. I don't know about the patents.

Q. But they do have different brands?

A. Yes.

Q. You have only been a purchaser of it in large quantities in 1912 and 1913.

A. The quantity is shown on that list there.

Q. Steel sheeting, is it called?

A. It is called steel sheet piling, sheet piling, and steel sheeting. Steel sheath piling I suppose is the technical name.

MR. COLTON: We object to this exhibit because it is based

in part on information and data not prepared by the witness, and on the further ground that it is immaterial.

By Mr. Colton:

Q. Just one other question: with regard to bids, you have no other information with reference to the variation of the bids than what you have calculated here in your tabulations here, have you, as regards the different manufacturers?

A. Will you repeat that question?

Q. Is your testimony in regard to the variations in bids among the makers based upon these exhibits you have produced?

A. Yes, and general knowledge from buying. There are a number of things we do not tabulate, because we do not consider them large enough, or for some reason, so that I have some knowledge aside from these bids, but largely based on these bids.

Q. And you have dealt largely or chiefly with the jobbers and not with the manufacturers; that is true in the case of bars?

A. True in the case of bars.

Q. That is true in the case of plain structural material also?

A. Yes.

(Whereupon an adjournment was taken until Friday, November 28, 1913, at 10.30 o'clock a. m.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1919

No. [redacted] 1[redacted]6

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

UNITED STATES STEEL CORPORATION ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

VOLUME 22.

DEFENDANTS' TESTIMONY.

FILED MAY 12, 1916.

VOLUME XXII.

Index of Witnesses.

	Direct.	Cross.	Re-direct.	Re-cross.
Harry S. Montgomery	8823	8830	8845	8846
William M. Crane	8847	8850	8853	8853
Willard R. Collins	8855	8859	8870	
John D. Landis	8871	8876		
Joseph B. Andrews	8899	8916		
Albert Grant Belmer	8922	8929		
Franklin Oscar Schoedinger	8943	8950	8960	
James Irwin Stephenson	8960	8966	8978	8978
Edward W. Greeno	8979	8984		
Philander L. Carter	8991	9002		
William H. Scobie	9005	9020	9035	9037
William O. Rogers, Jr.	9039	9045		
Emanuel Winelander	9052	9056	9063	
Lambert N. Hopkins	9064	9088	9120	9123
Alexis W. Thompson	9127	9145	9165	
H. H. Hammond	9170	9182	9189	9189
Ferdinand E. Cutler	9192	9202	9227	
William A. Linn	9228	9242	9255	
George E. Van Hagen	9256	9264	9273	9274
Frederick De Coningh	9281	9285		
William B. Melish	9285	9292	9307	

Index of Exhibits.

	Page.
Defendants' Exhibit No. 145 (for identification)	8824
" " Nos. 146 to 182 inclusive	8846

ONE HUNDRED AND TWENTIETH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Friday, November 28, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. COLTON.
Present on behalf of the defendants, MR. REED.

HARRY S. MONTGOMERY

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live, Mr. Montgomery?

A. Elizabeth, New Jersey.

Q. What is your occupation?

A. I am in charge of the purchasing department of the Lehigh Valley Railroad.

Q. Where are your offices, Mr. Montgomery?

A. 143 Liberty.

Q. Liberty Street, New York?

A. Liberty Street, New York, yes.

Q. How long have you been in charge of the purchasing department?

A. About eight years.

Q. What kind of steel supplies, if any, does your company buy?

A. Well, that is a pretty broad question. About everything that is made in the line of steel, I judge.

Q. And are those purchases made through your office?

A. Everything, except rail; everything except rail.

Q. Through whose office are the rails purchased?

A. Well, I believe the first vice-president, Mr. Middleton.

Q. Your connection with the rail purchases, I suppose, is largely mechanical?

A. That is all.

Q. The formal order goes through your office, does it?

A. Yes, sir; we issue the formal order to cover his purchase.

Q. The arrangement being made by some other officer?

A. Yes.

Q. You think the vice president?

A. Yes, I think Mr. Middleton.

Q. Does your company buy plates and sheets?

A. Yes, sir.

Q. Does it buy structural material?

A. Yes.

Q. Both plain and fabricated?

A. Right.

Q. Does it buy splice bars?

A. Yes.

Q. Tie plates?

A. Yes.

Q. Wire?

A. Yes.

Q. Bar steel?

A. Right.

Q. Billets?

A. Yes, sir.

Q. Flues?

A. Yes, sir.

Q. Have you made any effort to obtain the correct figures showing the tonnage of these different products that your company has bought during recent years?

A. Yes, sir.

Q. And the sources from which they were bought?

A. Yes, sir.

(Here five sheets were marked "Defendants' Exhibit No. 145.")

Q. I show you five sheets, collectively marked "Defendants' Exhibit No. 145," and ask you what that is (handing papers to witness.)

A. That is a statement of our purchases of miscellaneous steel products for the past three years, 1911, 1912 and 1913, and of rails for the years 1901 to 1912, inclusive.

Q. What was the reason for limiting the statistics on miscellaneous products to the last three years, Mr. Montgomery?

A. Why——

Q. (Interposing) Didn't you have time to get any more?

A. Why, we could have gotten more, but I thought that was enough.

Q. It was not on account of any request from me that you limited it?

A. No.

Q. Are these statistics that are shown on Exhibit No. 145 correct?

A. As far as I know, barring some clerical error, they were made up by clerks in the office, you know. I simply told them what to get, and took the figures as they gave them to me.

MR. COLTON: You have not offered them in evidence as yet?

MR. REED: No, not yet.

By MR. REED:

Q. Have you examined this Exhibit?

A. I looked it over, sure, and as far as I know it is absolutely correct.

Q. Do the figures accord with your recollection of the facts, in so far as you have examined them?

MR. COLTON: I object to that on the ground it is not shown that the witness has any independent recollection of the facts; on the further ground that the question is leading.

MR. REED: Now, will you answer it, please?

THE WITNESS: What was the question?

(The question was read by the stenographer.)

THE WITNESS: Well, it would be impossible for me to say whether those figures are correct or incorrect. My memory

would not enable me to do anything like that. As far as I know they are absolutely correct. I glanced over them and I did not see anything there that I questioned, except one item, and on that I called the clerk in who made the statement up, and I said to him, "This does not look right," and he went over his figures, where he had great big sheets of figures, and he found he had put in one item twice—a big item.

By Mr. Reed:

Q. And that was corrected, was it?

A. That was corrected.

Q. Was all this made by one clerk?

A. Two.

Q. Two clerks?

A. Two men.

Q. Are they available as witnesses, Mr. Montgomery?

A. Surely.

Q. What are their names, please?

A. Why, G. C. Kunow was one, and W. B. Hamblin.

Q. And they both live in New York, do they?

A. No; one of them lives in Jersey, and the other one lives out of town somewhere; I do not know where.

Mr. Colton: You do not know the exact addresses?

The Witness: No, I do not know their home addresses.

By Mr. Reed:

Q. But they are clerks in your New York office, are they?

A. Oh, yes.

Q. How do you buy these miscellaneous steel materials, Mr. Montgomery? Do you buy on annual contracts or do you buy from time to time as you need the material?

A. I do not think there is anything on here (referring to Exhibit No. 145) that is covered by a 1909 contract. Some things are bought on contract by the year, but the great bulk is bought as required, on requisitions.

Q. Before you let your contract or place your order, as the case may be, do you or do you not ask quotations from the different makers and dealers in these products?

A. We do.

Q. Has that been your custom in the past?

A. It has been ever since I have been in the business, except where we have a contract.

Q. And where you make contracts to cover periods of time do you ask quotations before letting the contract?

A. Yes.

Q. Confining your attention now to the quotations on steel products, I wish you would state whether or not the quotations that you receive on them are variant or uniform.

Mr. Colton: Just a moment; I object on the ground, first, that it calls for a conclusion upon a state of facts that may be in the witness' mind and not disclosed to the court, and further, that it calls for a general statement as to all of the steel products, and it is so comprehensive that the witness is likely to be misled in answering.

The Witness: Variant, decidedly.

By Mr. Reed:

Q. How long has that been so?

A. There are very few things that I can think of that I have ever had uniform prices on, very few.

Q. What are those very few things that you think of?

A. I was thinking of one thing, structural steel. If I am not mistaken—I am only speaking from memory—but if I am not mistaken there have been times when prices on structural steel have been practically uniform.

Q. What kind of times were those?

Mr. Colton: Objected to on the ground that it is not shown that the witness is familiar with conditions in the steel industry, or the character of the times in question.

(The question was repeated by the stenographer.)

The Witness: That is a hard question to answer. I think that during what we call the boom year—what was that, 1906-1907?—when everything was booming, that they were pretty uniform.

By Mr. Reed:

Q. In times of general depression in business have you found that uniformity?

A. No.

Q. When the mills needed business, have they or have they not been willing to shade prices to get it?

MR. COLTON: I object to that on the ground that it is not shown that the witness has any familiarity with the needs of the different mills in respect to the business, and that he is incompetent to answer the question.

THE WITNESS: Yes, that is absolutely so; when times are dull and the mills need business, they go after it just as anybody else would; the question of profit is not considered as it would be in good times.

By MR. REED:

Q. Have you had a practice of tabulating these quotations that you receive?

A. Yes.

Q. Have you made any effort to get any of those tabulations?

A. Yes, I have.

Q. Just what did you do in that regard?

A. You have got some of them right there, Mr. Reed. I told one of the clerks in the office to get a number of those tabulations. Those are just simply the tabulations of bids. I told him to get a number of them at random; I gave him a list of subjects and this is what is made from it (referring to Exhibit No. 145).

Q. Did you make any selection of those tabulations in order to get those which were favorable to any particular theory or any side of this case?

MR. COLTON: I object on the ground that it is not shown that the witness had anything to do with the particular selection in question.

THE WITNESS: No, sir; these are just as they were brought to me by the clerk who picked them out.

By MR. REED:

Q. Mr. Montgomery, I show you Defendants' Exhibits Nos. 146 to 182, both inclusive, and ask you what those are (handing papers to witness).

A. Those are tabulations of bids on material as they

are brought in to me every day. Those are the names of the people who were asked to bid, and here are the bids.

Q. Are these last mentioned exhibits typical of those which have been received during your term of office in charge of the purchasing department?

Mr. Colton: I object on the ground that the question calls for the witness to make a conclusion on a very large number of bids; to state them to be typical as regards the various bids that have come into him from time to time extending over the period of time during which he has been connected with the business, and his mind is not addressed to what is meant by "typical" in this sense.

The Witness: Yes, sir.

By Mr. Reed:

Q. Do you know Mr. George F. Baker, Mr. Montgomery?

A. No, sir.

Q. Is he a director of the Lehigh Valley Company?

A. I found it out last week, when I came to look up the annual report. I did not know it before.

Q. When did you first learn that he is a director of the Steel Corporation?

A. When you told me last week some time.

Q. Do you know Mr. Charles Steele?

A. No, sir.

Q. Is he a director of the Lehigh Valley?

A. I found that out also at the same time.

Q. Did you know it before?

A. No, sir.

Q. Did you know that he was a director of the Steel Corporation until I told you?

A. Not until you told me.

Q. Has either of those gentlemen at any time ever spoken with you in regard to purchases of steel products from the Steel Corporation or any other company?

A. I never saw either of them that I know of.

Q. Has any officer of your company or any director at any time attempted to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Have you ever favored the Steel Corporation because of the relationship of Messrs. Baker and Steele to the Steel Corporation?

A. No, sir.

Q. Have you ever favored the Steel Corporation for any reason other than its offer of a better price or a better delivery or a better quality?

A. No, sir.

Q. Referring again, Mr. Montgomery, to Defendants' Exhibits Nos. 146 to 182, both inclusive, I ask you by whom these quotations are tabulated?

A. One of the clerks.

Q. In your office?

A. Yes, sir; the regular man.

Q. After that tabulation has been made, what is done with it?

A. They are put on my desk every morning.

Q. In what way, if any, do you express your decision as to the awarding of the contract?

A. They are all checked there in blue pencil. That means I pass it.

Q. Who puts on that blue pencil check?

A. I do.

Q. Then the check marks in blue pencil that we find on these exhibits were put there by you?

A. That is right.

Q. And are these the original tabulation sheets on which you acted?

A. Yes.

Q. And on which the contracts or orders were awarded?

A. Yes, sir.

MR. REED: That is all. Cross examine, Mr. Colton.

CROSS EXAMINATION

MR. COLTON: May I have Defendants' Exhibit No. 145?

(Paper handed to Mr. Colton by the witness.)

MR. COLTON: You have not offered Defendants' Exhibit No. 145 in evidence as yet?

MR. REED: Not yet; no.

By Mr. Colton:

Q. When did you first become connected with the Lehigh Valley Railroad? Is that right?

A. Yes. Twenty-two years ago, I think it is.

Q. In what capacity?

A. Why, first, as chief clerk in the general storekeeper's department.

Q. General what?

A. General storekeeper.

Q. How long were you chief clerk in the general storekeeper's department?

A. I think it was five years.

Q. And about what date?

A. 1892 to, I think it was, 1897.

Q. What was the next position you held?

A. I became general storekeeper.

Q. You became general storekeeper in 1897?

A. 1897 or 1898; now, I would not swear to which.

Q. What were your duties as chief clerk?

A. Well, to manage the office.

Q. Were you connected with the buying?

A. No.

Q. What were your duties as general storekeeper?

A. As general storekeeper I had charge of the storehouses all along the road, and the general storehouse, and ordered the material to keep up that stock.

Q. How long were you general storekeeper? You may have stated, but I have forgotten it.

A. I think about two years.

Q. Did you have anything to do with the buying during that period of time?

A. Not a thing.

Q. What was the next position you held with the Lehigh Valley Railroad?

A. I went into the purchasing department then.

Q. What year was that?

A. It is pretty hard for me to fix dates. About 1900.

Q. You became connected with the purchasing department in about 1900?

A. Yes.

Q. In what capacity?

A. Practically assistant purchasing agent; I took the place of an assistant who passed out.

Q. What were your duties as acting purchasing agent—acting purchasing agent, is that it?

A. I was really assistant purchasing agent, and I did part of the buying; that is, mostly the smaller stuff.

Q. What steel products did you buy?

A. The same as we are buying now. You have a list of them right now.

Q. I want to know what they are.

A. Billets and car axles, sheets and plates, structural steel and angle bars.

Q. Would angle bars be structural steel?

A. No, I mean splice bars. I can read this list to refresh my memory—steel wheels; that is an item, and a pretty heavy one.

Q. You can use any set of names that you may have.

A. Wire, wire nails, bar steel; that is about the line.

Q. When did you continue to be assistant purchasing agent.

A. I have been in the department ever since, and up to eight years ago I was occupying the same position; about eight years ago the office of purchasing agent was discontinued, and since then I have been handling the thing and reporting to the man who was formerly the purchasing agent.

Q. During the time that you were assistant purchasing agent you did not have charge of settling on the particular company to which you would award an order or contract, did you?

A. To some extent, yes. That is, I handled some part of the business entirely myself.

Q. Now, since you have become purchasing agent——

A. No, we have no purchasing agent; I am in charge of the department.

Q. Since you became in charge of the department has your assistant also had authority in certain cases?

A. No, sir.

Q. What quantity of billets did you buy during the year 1900?

A. I couldn't tell you that.

Q. Can you give any approximation of how many billets you bought in 1900?

A. I haven't the slightest idea; no, sir, I could not tell you. I think, though, I could get it from the records.

Q. I want to take your memory now.

A. I could not tell you.

Q. The Lehigh Valley Railroad—when you speak of the Lehigh Valley Railroad are you speaking of any associated lines with it?

A. The whole thing; what is known as the Lehigh Valley Railroad.

Q. Give a description of that.

A. It is a road running from New York to Buffalo, with branches up in New York State to Lake Ontario, and the other one which used to be called the Elmira, Courtland & Northern, which runs up to a little place called Camden, up in the State, and branches out in the coal regions; and those branches are probably incorporated under a great may different names. I don't know anything about that; that is not part of my business, but the whole thing is known as the Lehigh Valley Railroad.

Q. Do you purchase for the entire road you are now describing?

A. Yes.

Q. And you do not purchase for any roads that may be associated with the Lehigh?

A. No, sir.

Q. About what tonnage of billets did you buy in the year 1900?

A. I couldn't tell you.

Q. From whom did you purchase billets in 1900?

A. I could not tell you that; I have three years here, 1911, 1912 and 1913. This gives the tonnage.

Q. Just at present, if you would address your mind to the questions I ask, rather than those last three years—what quantity of billets did you buy in the year 1901?

A. I couldn't tell you.
Q. From whom did you buy them?
A. I could not tell.
Q. From whom did you solicit bids in 1900?
A. I could not tell you that.
Q. From whom did you solicit bids in 1901?
A. I could not tell you.
Q. In 1902?
A. I couldn't tell you.
Q. In 1903?
A. I could not tell you.
Q. In 1904?
A. I could not tell you.
Q. In 1905?
A. I could not tell you.
Q. In 1906?
A. I could not tell you.
Q. In 1907?
A. I could not tell you.
Q. In 1908?
A. I could not tell you.
Q. In 1909?
A. I could not tell you.
Q. In 1910?
A. I could not tell you.

Q. Now, without looking at that exhibit, do you personally recollect the particular concerns from which you solicited bids for billets in any one of the last three years?

A. No. Well, hold on; you ask me can I tell you one concern, one name?

Q. Yes.

A. I believe we never asked for bids on billets without asking the Camden Forge Company, and possibly also the concern of D. G. Gautier.

Q. Have you personal recollection as to either of those concerns, that you did solicit bids from both of them during the last three years?

A. I believe that an examination of the records would

show that we never failed to ask at least those two, every time we were in the market.

Q. Where is the Camden Forge Company located?

A. It is somewhere in the neighborhood of Philadelphia.

Q. Where is D. G. Gautier located?

A. I am afraid you have got me there; I think they are in Philadelphia too; their address is Philadelphia. I do not have to keep track of these addresses; it is done by somebody else outside. I know these names without knowing where the people are, in many cases.

Q. Do you know whether D. G. Gautier is a manufacturer?

A. I believe so.

Q. Where do they have a rolling mill, if they have any?

A. Where do they have?

Q. Yes; if they have a rolling mill, where is it?

A. I think it is somewhere in the neighborhood of Philadelphia.

Q. Have you ever been to it?

A. No.

Q. By what means do you know that they roll their own steel?

A. I do not know it, positively.

Q. The Camden Forge Company; do you know where their rolling mill is located?

A. Somewhere in the neighborhood of Philadelphia, I am pretty sure.

Q. Do you know of your own knowledge that they have a rolling mill?

A. I do not. I believe they have, though.

Q. Can you give the approximate price of billets in the year 1900?

A. No.

Q. Could you give any approximation as to the extent to which billets varied as between the different manufacturers in the year 1900?

A. No, sir.

Q. Do you have any recollection of a great drop in the price of billets during the year 1900?

A. No, sir.

Q. You have no recollection on the subject one way or the other?

A. No; to tell you the truth, billets are a very small item with us.

Q. Then you do not feel as if you are in touch with the billet market?

A. That is only one of so many thousands of things that it would be absolutely impossible for me to carry it in my mind.

Q. It being a small item with you, you do not make the same effort to secure a large number of bids in billets as you do in some of the other products; is that right?

A. More or less so, but we get competitive bids probably from four or five people at least.

Q. Can you say, as a matter of recollection, as to what four or five people you got bids from during the year 1907?

A. I couldn't tell you.

Q. Could you give any statement as to the extent of the variations in the price of billets during the year 1907?

A. No, sir.

Q. 1908?

A. No, sir.

Q. 1909?

A. No, sir.

Q. 1910?

A. No, sir.

Q. 1911?

A. No, sir.

Q. 1912?

A. No, sir.

Q. 1913?

A. No, sir.

Q. 1900 to 1906, inclusive?

A. No, sir.

Q. From whom did you purchase sheets in the year 1900?

A. Well, I could not answer that.

Q. Can you answer it for any year from 1900 to 1910, inclusive?

A. In 1910 I am quite sure that the bulk of our sheets

was purchased from Worth Brothers and from the Lukens Iron & Steel Company.

Q. Now, when you say you purchased the bulk of your sheets from Worth Brothers and Lukens Iron & Steel, do you not mean that you purchased the bulk of your plates from those two companies, as distinguished from sheets?

A. Oh, well, yes. Now, if you are going to separate them, I should say that is plates, because it is really boiler, fire box, and tank plates.

Q. Do you know to what extent your purchases from those two companies during the year 1910 were boiler and fire box plates?

A. Boiler, fire box, and tank plates?

Q. Boiler and fire box plates, as distinguished from tank plates?

A. They are three different things, you know?

Q. Yes, I understand; but I want to know what percentage of your purchases were boiler and fire box plates, and what percentage was tank plates.

A. Oh, I cannot answer that question.

Q. You do not know?

A. No.

Q. You do not know whether your tank plate purchases amount to 10 per cent. of your whole purchases or not, do you, in plates?

A. In plates, yes; I should say without any hesitation at all it amounted to considerably more than that.

Q. Well, how much more?

A. Probably 25, 30 or 40, or maybe 50 per cent.

Q. Will you say 25?

A. I should be inclined to raise that to nearer 50.

Q. To nearer 50 per cent.?

A. Yes.

Q. Do you have any recollection of the prices that were bid you on plates in the year 1910, independent of your records?

A. No, sir; I could not tell you.

Q. As to the extent of the variation between the different manufacturers?

A. No, I could not tell you.

Q. How did you submit your orders during the year 1910 to the different manufacturers?

A. For plates?

Q. Yes.

A. I do not think we submitted them at all. That is a peculiar thing, and requires an explanation. Our people have very strict specifications, you know, for boiler and fire box steel, and this material must meet those specifications. We have found, and it has been the experience for a number of years, that Worth Brothers, of Coatesville, and this Lukens Iron & Steel Company, who are also of Coatesville, I think, have invariably furnished us steel that met those specifications, and we had no trouble. At the same time, they have kept us right down to the market. There is competition between the two, and if Lukens notifies us, as they did a week ago or ten days ago, that they have cut the price a dollar a ton, Lukens gets all the business until Worth wakes up and comes in and meets that price. We do not ask bids.

Q. You work those two companies against each other?

A. Yes.

Q. And that is the kind of competition you get in plates?

A. Yes; that is it, and we know we cannot beat it anywhere else.

Q. That there is sufficient uniformity in the price not to be able to beat them anywhere else?

A. That is right. They run about the same.

Q. Yes. Now, you spoke of the fact generally that in dull periods prices were lower than they were in prosperous times, in the steel industry?

A. Yes, sir.

Q. Now, take the year 1908 and the year 1909 in the steel industry: Would you undertake to say that the year 1908 was more prosperous in the steel industry than the year 1909?

A. I would not undertake to, no, sir. I do not remember it.

Q. You do not remember?

A. No, sir.

Q. Nor would you undertake to say that in the year 1909, if that year was the more prosperous of the two years, or despite the fact that that year was the more prosperous of the two, that prices were far lower in 1909 than they were in 1908 on steel products in general?

A. Would you mind repeating that?

MR. COLTON: Read that question to him.

(The pending question was read by the stenographer.)

MR. REED: Is that a statement or a question?

MR. COLTON: That is a question.

THE WITNESS: Well, the fact of the matter is, you know, I do not remember whether 1909 or 1908 was the more prosperous year.

By MR. COLTON:

Q. You do not remember, then, that in 1909 the output in steel products was far greater than it was in 1908?

A. No; that is something I never looked into.

Q. And during the year 1908 you never investigated the extent to which the different mills needed orders, did you?

A. No, sir.

Q. And during the year 1909 you did not investigate the extent to which they needed orders?

A. No, sir.

Q. Do you recall the very great cut that occurred about February, 1909, in steel products, at the time Judge Gary held a meeting and gave notice that he would no longer continue to meet together with the other manufacturers in the way that they had been doing?

A. No, sir; I do not recall it at all.

Q. You do not have any recollection in regard to that?

A. No, sir.

Q. Now, do you have any recollection as regards the prices during 1910, as compared with the year 1908, with respect to uniformity between the different manufacturers?

A. No, sir; I do not have any recollection at all.

Q. Do you have any recollection as distinguishing the year 1907 and 1910, as regards the uniformity of prices among the different manufacturers of steel products?

A. No, sir.

Q. As between 1906 and 1910 do you have any recollection in regard to that?

A. No, sir.

Q. During the year 1911 were you sufficiently familiar with the steel market to be aware of the large cut in steel prices that followed the notice by the Republic Company to the majority of the other manufacturers of steel products in the United States that they would no longer continue in the co-operative movement?

A. No, sir.

Q. You have no recollection as to prices during 1911?

A. No.

Q. Or as to the variations between the different manufacturers in respect to prices?

A. No, sir.

Q. From whom did you purchase your structural steel in 1900?

A. I could not tell you, except by giving you a list of the names we are buying from now. They are practically the same people.

Q. Well, do you have any recollection of the people that you bought from in 1900?

A. No, sir.

Q. Did you buy from Carnegie in 1900?

A. I have no doubt we did.

Q. You have not any recollection of it?

A. No, sir.

Q. Did you buy from A. & P. Roberts in 1900?

A. Pencoyd? I think we did.

Q. Did you buy from the American Bridge Company fabricated structural material in 1900?

A. I could not tell you, really.

Q. In the year 1901——

A. (Interposing) I could not say.

Q. (Continuing)—could you give any of the parties?

A. No.

Q. For any one of the years from 1901 down to 1910, in-

clusive, can you give any of the parties from whom you purchased?

A. No, except by giving you the present list.

Q. And, I believe, you have already said as to that present list you depend on the memorandum for that?

A. Yes.

Q. During the last three years do you have any recollection as to the different parties from whom you solicited bids on structural material, independent of any memorandum which you may have?

A. Fabricated material or——

Q. (Interposing) Plain material.

A. Plain material?

Q. Yes.

A. Why, Jones & Laughlin, Pittsburgh, is one; Eastern Steel Company, of Pottsville; Phoenix Iron Company, of Phoenixville; Carnegie Steel Company; Cambria Steel Company; Bethlehem Steel Company; Lackawanna Steel Company, and four or five dealers.

Q. Do you know, as a matter of recollection, that you solicited bids from each of these different companies on every order in structural material?

A. No, I would not say that.

Q. I did not mean to imply that you had said it; I just wanted to get the fact.

A. No, I could not say.

Q. Do you know in respect to the various orders as to which of these different companies you solicited bids from?

A. As to which of them?

Q. Yes; as to which of the companies you have named. I understand that you solicited bids at one time or another from all of these different companies?

A. The probabilities are that those names that I have given you were on every inquiry that we put out for structural steel.

Q. That is the probability, but as to your recollection now, you haven't any independent recollection on that?

A. I could not be positive; I think they were, though.

Q. Have you any recollection as to the quantity of structural steel that you bought in 1909?

A. I couldn't say.

Q. 1910?

A. I couldn't say.

Q. 1911?

A. You have that here if you want me to read it.

Q. No, I do not want it off a memorandum.

A. No, sir.

Q. 1912?

A. No, sir.

Q. 1913?

A. No, sir.

Q. Could you state what companies you solicited bids from in respect to your different orders of structural steel prior to 1910?

A. I could not.

Q. From whom did you buy splice bars in the year 1900?

A. I couldn't tell you.

Q. Could you tell me for any year from 1900 to 1910 inclusive?

A. No, sir.

Q. Could you tell me from whom you solicited bids for any of those years?

A. No, sir.

Q. Since 1910 from what different companies have you purchased splice bars?

A. The Cambria Steel Company, Lackawanna Steel Company, I think Carnegie, but I am not sure, and probably the Pennsylvania Steel Company. The Lackawanna and the Cambria I am sure of.

Q. Do you know whether the Pennsylvania Steel Company makes splice bars or not?

A. Yes, sir.

Q. Do they roll them?

A. I believe they do; I always have believed it.

Q. Do you know whether you asked for bids, as a matter of recollection, from each of those companies on each one of the different orders placed during the last ten years?

A. I believe we have.

Q. I am asking for your recollection now if you have any, as regards the different orders.

A. I couldn't say.

Q. Take wire. From what different companies did you purchase wire in the year 1900?

A. I couldn't tell you.

Q. Do you not know what different companies you purchased wire from in the year 1900?

A. No, sir.

Q. Do you know any of the different companies from whom you purchased wire in any year from 1900 to 1910, inclusive?

A. I could not answer that question positively, no.

Q. Do you know anything in regard to the variations in prices as between the different companies from whom you purchased wire from 1900 to 1910, inclusive?

A. No, sir.

Q. You have no recollection as regards variations in prices during those years, have you?

A. No, sir.

Q. Would your answers be the same as to wire nails?

A. Yes.

Q. During the last three years from whom have you purchased wire?

A. From J. Roebling's Sons Company, Trenton; Standard Underground Cable Company, Waclark Wire Company, Waclark, Montana; American Steel & Wire Company, Hazard Manufacturing Company. I guess that is about all that I can recall.

Q. Do you recall what sort of wire you bought from the Hazard Manufacturing Company?

A. No.

Q. Could you state the kind of wire that you purchase from any one of those different companies?

A. The only one that I do know is that we have purchased from Roeblings for a great many years wire that is used for bonding rail in the track, to make an electric circuit; we have stuck to them because they furnish something that suited our people. That is the only one I could tell you.

Q. You bought from them exclusively on that?

A. That one item, yes.

Q. As to the others you have no recollection as to the character?

A. No.

Q. Now, how about wire nails, could you tell me what different companies you purchased wire nails from during the last three years?

A. Yes, from Wickwire Brothers, Cortland, New York; the American Steel & Wire Company, and the Pittsburgh Steel Company.

Q. Is Wickwire located on or near any one of your lines?

A. They are located at Cortland, New York.

Q. Is that on one of your lines?

A. It is on one of our lines.

Q. Is the American Steel & Wire Company located on any of your lines, so far as you know?

A. They have got a plant at Allentown, I believe. What they make there, I don't know.

Q. The Pittsburgh Steel Company has not?

A. They are at Pittsburgh.

Q. Do you know what percentage of wire nails you purchased from the Pittsburgh Steel Company during the last three years?

A. No, I couldn't tell you.

Q. Nor what percentage you purchased from the American Steel & Wire Company during the last three years?

A. No.

Q. Take bar steel; from whom did you purchase bar steel in the year 1900?

A. I couldn't tell you.

Q. Could you give me the names of any of the different companies from whom you solicited bids or took prices in the year 1900 on bar steel?

A. No, sir.

Q. Can you tell me for any one of the years from 1900 to 1910, inclusive?

A. No, sir.

Q. Have you any recollection as to the variation in prices as between the different manufacturers in bar steel for any one year from 1900 to 1910, inclusive?

A. No, sir.

Q. I believe you stated you could not give the persons from whom you purchased bar steel in any one of those years?

A. No, sir.

Q. From whom did you purchase bar steel during the last three years?

A. I couldn't answer that question without looking up my records.

Q. You have not any memory independent of your records?

A. No; I do not pretend to carry those things in my mind.

Q. If you wished to find out the variations, you would go to your records on that?

A. I surely would.

Q. You would not pretend to remember the variations?

A. No.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Could you give us the total tonnage of all steel products that your company has bought annually in recent years?

A. Could I give it to you?

Q. Can you; have you got it in your mind?

A. No, sir.

Q. I suppose that can be worked out from Exhibit 145, can it not?

A. Yes.

Q. I understood you to say, in answer to one of Mr. Colton's questions, that you do not purchase for roads associated with the Lehigh Valley, or perhaps you concurred in a question that included those words. Do you know of any roads that are associated with the Lehigh Valley for which you do not buy?

A. I would infer that that question would refer to the Philadelphia & Reading and the Jersey Central; but everything that is known as the Lehigh Valley we buy for.

Q. Will you state whether or not you believe that in your purchases of steel products you get the benefit of genuine competition?

MR. COLTON: I object on the ground that the witness has not been shown to be qualified to give any opinion on that subject.

THE WITNESS: We believe we do.

MR. REED: We offer in evidence Defendants' Exhibits 146 to 182, both inclusive.

MR. COLTON: I am going to cross examine Mr. Montgomery on his knowledge of those exhibits, if you are going to offer them in evidence.

RECROSS EXAMINATION

By MR. COLTON:

Q. Look at Defendants' Exhibits 146 to 182, inclusive, and give the period of time that they cover.

A. They were picked out at random for the years 1912 and 1913. These records prior to 1912 have been destroyed; that is, we asked permission of the Interstate Commerce Commission to burn them up. They are bulky, you know, and the last two years are all that we have. I just told a clerk to pick those out, giving him this list of subjects, and those are what he gave me.

MR. COLTON: I object to all of the exhibits, 146 to 182, inclusive, on the ground that this witness is not competent to prove their identity or their correctness, and I understand as to all witnesses we are having an objection as to any matters that relate to a time subsequent to October 26, 1911.

MR. REED: I did not know that. So far as my witnesses are concerned, you are perfectly welcome to understand it.

MR. COLTON: You do not offer Exhibit No. 145?

MR. REED: Not yet, no.

(The papers referred to were thereupon marked "Defendants' Exhibit (Montgomery) No. 146, November 28, 1913" to "Defendants' Exhibit (Montgomery) No. 182, November 28, 1913," and will be found in the volume of Defendants' Exhibits.)

MR. REED: It is agreed by counsel that after Exhibits 146 to 182, both inclusive, shall have been printed in the record, the originals of said exhibits may be returned to the witness last on the stand.

WILLIAM M. CRANE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. REED:

Q. Where do you live?

A. In Whitestone, Long Island, Beechhurst.

Q. Your place of business is in New York City?

A. New York City.

Q. What is your occupation?

A. Manufacturer of gas appliances.

Q. And the name of your company is what?

A. The William M. Crane Company.

Q. You are president of the company?

A. I am.

Q. And have been since its organization?

A. I have.

Q. When was it organized?

A. We have been a firm from the very inception of the company until—I can not recall from memory just when it was—say about 1900.

Q. How long have you been in this same business?

A. In the manufacturing, we have been in it about twenty-four years.

Q. Where are your works?

A. At Greenville, Jersey City.

Q. What kind of steel materials do you buy?

A. Principally sheet steel and pipe, with some little band iron.

Q. What gauge sheet steel do you buy?

A. The bulk of it is 24-gauge.

Q. And about how many tons do you buy of that annually?

A. At the present time about 1,200 to 1,500 tons.

Q. From what companies have you received quotations on that character of sheet steel?

A. I can not recall all that we get quotations from. Each season, when we begin the season, we get quotations from so many that come in to call on us to try to sell us goods; we simply get their quotations and make a note of them.

Q. Can you give us the names of some of the companies from whom you have bought?

A. Yes; we have bought of the La Belle, the American Sheet & Tin Plate Company, and the Youngstown Sheet Steel & Roofing Company, and Bruce & Cook; they are more particularly jobbers.

Q. You have bought from a number of different jobbers?

A. We have bought from a number of jobbers; we pick up a great many lots of them.

Q. Have you bought any from the Follansbee Company?

A. Yes, we have, in times past.

Q. From the Alan Wood Iron & Steel Company?

A. I do not think we have had quotations from them. We have not used their quality of iron.

Q. Do you usually buy on contracts for a specific period, or do you buy as you need the material from time to time?

A. Why, we usually buy a certain portion on contract for the season.

Q. And the balance as you need the material?

A. And the balance as we need the material.

Q. Before you let your contracts, or before you place your orders, do you ask quotations from different manufacturers and jobbers?

A. We do.

Q. And how long have you been doing so?

A. Ever since I have been buying; ever since we have been in business.

Q. Do the quotations that you receive vary, or are they uniform in price?

A. They vary.

Q. How long has that been so, Mr. Crane?

A. Why, always.

Q. Do you believe that you get the benefit of genuine competition in your purchases of sheet steel?

A. I do.

Q. Now, coming to pipe, about how many tons of pipe do you buy annually?

A. I don't know what the tonnage would be. We buy from five to eight cars a year. That is charged up per foot, you understand.

Q. I see. Can you give us any idea of the number of feet you buy?

A. I should say 250 to 300 thousand feet; that is just a guess; it may be a little more or less. I am only guessing at it.

Q. Of what sizes do you buy mostly?

A. Half inch and three quarter.

Q. Steel pipe?

A. Steel pipe.

Q. That is, welded steel pipe?

A. Yes; it is welded steel pipe; what is known as steel pipe.

Q. From what companies have you been buying your pipe?

A. We have bought from the Longmead Company, and La Belle; from the Crane Company. We have bought considerable from Ronalds & Johnson.

Q. Do you buy from the National Tube Company too?

A. I do not think so, except as we have had stuff from them through the Crane Company. I do not think we bought any from them direct.

Q. Have you had quotations from other manufacturers of pipe?

A. I do not recall the others.

Q. How about the Republic Company, for instance? Have they ever quoted to you?

A. They may have quoted. I do not recall that, because it has gone through the purchasing department.

Q. Well, these quotations are submitted to you by your purchasing department, are they?

A. They are.

Q. How about the quotations on pipe, Mr. Crane? Are they uniform or do they vary?

A. They vary, from the different ones.

Q. And how long has that been so?

A. Ever since we have been buying.

Q. Do you believe you get the benefit of competition on your pipe purchases too?

A. We feel we do.

MR. REED: Cross examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. There are times when two or more companies quote the same price on sheets, are there not?

A. That sometimes happens on the variations. We have different sizes and different qualities, you know, and they sometimes have the same price.

Q. From whom did you purchase sheets in the year 1900?

A. I cannot remember.

Q. From whom did you take bids in the year 1900?

A. I cannot remember that.

Q. 1901?

A. I will have to say that I do not remember after the year's supply. We go over all our figures. We get all our estimates, and take the different figures that we get from the different companies. We eliminate those that are highest, and get it down to one or two that are the lowest. After I settle the prices, then I turn it over. I could not recall even back two years, or even one year.

Q. Your recollection is rather indefinite, these being matters of record, and you have not charged your mind with them?

A. No, sir; not at all; I could not recall at all.

Q. Do you recall, as a matter of distinct recollection, as to which of the different companies in the year 1901 had the same price, and which of them had different prices on their quotations on sheet steel?

A. Well, I could not, because we buy several qualities, and then there is one quality that we insist upon. That quality we insist upon, and we were able to get it from two or three mills at one time, and then from only one mill. Others would probably quote the same price, but it was not the same quality of iron, so we dismissed the others. After doing that I dismissed it from my mind.

Q. Would your answer be the same for the year 1902?

A. It would be the same for all years.

Q. For the entire period of time?

A. For the entire period of time. I have no recollection at all.

Q. If two or more companies happened to bid the same in January you would have no recollection as to whether those same two or more might bid the same later in the year or not, would you?

A. No, I would not, unless we had occasion, as we sometimes have, late in the year, with an increased business, to buy several carloads. Then we get special bids again.

Q. Now, could you give me for any of the different years, as a matter of recollection, the companies from which you have solicited bids, from 1900 to 1910, inclusive?

A. On pipe?

Q. No, on sheet steel.

A. On sheet steel?

Q. Yes.

A. For quite a number of years we used a smaller quantity of sheets, and we bought from the jobbers. Bruce and Cook.

Q. And what other jobbers?

A. I do not remember the jobbers. I cannot recall them.

Q. Your connection with this is rather through your subordinates, is it not?

A. Only the last four or five years it has been. I have a purchasing agent, and he attends to the detail.

Q. You do not remember for the earlier years when you were in charge?

A. Well, I have forgotten the names of the jobbers just for the moment, until they come to me.

Q. What was the first year that you took up the question of bids or orders with any of the manufacturers?

A. Well, I should say about in 1900 and 1895; somewhere along there.

Q. But you could not give any of the manufacturers for any one of the different years?

A. Yes; Youngstown Steel is one that we first dealt with as a manufacturer; Youngstown Sheet Steel and Roofing Company.

Q. The Youngstown Sheet Steel & Roofing Company?

A. Yes; they brought a quality of iron to us that——

Q. (Interposing) That you liked?

A. Yes, that we liked.

Q. And which was most suitable for your wants?

A. Yes, and which was suitable for our wants.

Q. How long did you continue to buy it from that company because of that special suitability?

A. Up until four or five years ago.

Q. And you liked that style of steel so much that you confined your business to that company?

A. Practically, at that time.

Q. What do you mean by "four or five years ago"?

Mr. Reed: What does anybody who talks English mean by that, Mr. Colton?

Mr. Colton: Well, I do not know. It is a little indefinite. I would like to have you define just what you do mean.

The Witness: I do not know. I would not define it.

By Mr. Colton:

Q. You just mean, generally, two, three or four years ago; is that it?

A. That is the idea, exactly.

Q. I see. Now, in regard to pipe, could you tell me with what different companies you took up the question of your orders in 1900?

A. I could not.

Q. Can you tell me for any year from 1900 to 1910, inclusive?

A. Only in a general way; we have bought from the Crane Company, and from Ronalds & Johnson, but just what proportion I do not know. Ever since we have been in the business those have been the typical ones.

Q. Sometimes, in the case of pipe, there would be two or more of them that would bid the same, also?

A. Oh, yes.

Q. But you could not tell us as to which of them bid the same at one time and which bid the same at another time, could you?

A. Oh, no; there is always a variation of five or ten per cent.

Q. There would be one or more that you could get under with, as a rule?

A. Yes.

Q. That is as to pipe?

A. Yes.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. REED:

Q. Mr. Crane, I do not know that it is very clear when you started to place your purchases with companies other than the Youngstown Sheet Steel & Roofing Company. Can you tell us approximately when you began to place your orders with other companies than that one?

A. Well, I should say about in 1908.

MR. REED: That is all.

RECROSS EXAMINATION

By MR. COLTON:

Q. Was that for sheet steel?

A. Yes.

Q. Do you have any recollection that you began to place orders with any other manufacturer as early as the year 1908?

A. I stated 1908 rather than to say "four or five years." It is about 1908.

Q. You said, did you not, that you used the term "four or five years" in the sense of two, three or four years?

A. Yes.

Q. You could not state the first year in which you did begin to so purchase?

A. No; only this: I know we have not bought—just as I say, indefinitely, about five or six years, since we have bought the quantity from the Youngstown people. We began to buy of others——

Q. (Interposing) For the last two years you have bought about what percentage from the American Sheet & Tin Plate Company?

A. The last year we bought all, and, I think, we bought practically all a year ago,—1912; and before that, we divided up.

Q. You divided it up among what different parties?

A. Youngstown Steel was then finishing up, I think.

Q. And the American Sheet & Tin Plate?

A. No; they are outside of that.

Q. They did not come in until 1912?

A. No; before that. I think we bought of the Steel Corporation in, I will say, 1909.

Q. And how much did you buy from the Steel Corporation in 1909? What percentage of your requirements in that line?

A. I could not tell you that. At first, instead of making contracts, we would buy one, two, or three cars at times when we needed it, and it ran along in that way, just as we needed the goods.

Q. In 1909 what other companies did you buy from besides the American Sheet & Tin Plate Company?

A. Those I have quoted; Bruce & Cook, and the jobbers; we picked up. The manufacturers—I do not know whom they represented.

MR. COLTON: That is all.

MR. REED: That is all, Mr. Crane. Mr. Collins.

WILLARD R. COLLINS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live, Mr. Collins?

A. Newark, New Jersey.

Q. What is your occupation?

A. Purchasing agent of the Erie Railroad.

Q. How long have you been purchasing agent of the Erie Railroad?

A. Since May, 1909.

Q. 1909?

A. Yes, sir.

Q. And prior to that time what was your position?

A. I was assistant purchasing agent of the Erie since November, 1902.

Q. What kind of steel materials does the Erie buy?

A. Bars, shapes, plates, tubes; practically everything in steel.

Q. Spikes?

A. Yes, sir.

Q. Wire?

A. Yes, sir.

Q. Angle bars?

A. Yes, sir.

Q. Can you give us any idea of your approximate annual tonnage of purchases of steel supplies?

A. No, sir; I have not looked that up.

Q. Can you give us the approximate annual tonnage of any particular products?

A. Well, in 1912, on shapes, angles, structural, plates, and bars, approximately 10,000 tons.

Q. Does that include your spikes?

A. No, sir.

Q. Does it include your angle bars?

A. No, sir.

Q. Does it include your wire?

A. No, sir.

Q. That would be additional?

A. Yes.

Q. Whatever it would amount to?

A. Yes.

MR. COLTON: 10,000 tons during what year?

THE WITNESS: 1912.

By MR. REED:

Q. How about the purchases of rails, Mr. Collins? Are the purchases of rails made through your office?

A. No, sir; by the president, or, at least, in his office.

Q. You, however, purchase all the other steel products that your company requires?

A. Yes, sir; they are purchased in my office.

Q. While you were assistant purchasing agent, Mr. Collins, between 1902 and 1908, did you give your attention at all to the purchase of steel supplies?

A. No, sir.

Q. What departments were under your particular charge at that time?

A. Fuel and coal, ties and lumber.

Q. You confined your attention largely to them, did you?

A. Altogether during that time, except it may be possible that at the request of the purchasing agent, I might handle some particular thing to relieve him, but it was simply that one item at that time, and ended there.

Q. That would be the exception?

A. Yes.

Q. Since you became purchasing agent in May, 1909, who has had charge of the purchase of steel supplies?

A. I have.

Q. How do you buy, Mr. Collins, by annual contracts or by orders as you need the material?

A. Mostly by contract, although on certain items, largely by what we term inquiries—quotations

Q. Do you ask for quotations from different makers of these materials?

A. Yes.

Q. How do the quotations range in price? Are they uniform, or do they vary?

MR. COLTON: Objected to on the ground that the witness is not shown to have any memory or recollection on that subject, of his own personal knowledge.

THE WITNESS: There is variation in price.

By MR. REED:

Q. Are there any exceptions to that general statement?

A. It would not hold 100 per cent., but, then, generally speaking, the quotations we receive vary.

Q. In what kind of times do you find the least variation?

MR. COLTON: Just a moment. I object on the ground that the witness is not shown to have any knowledge as to the particular times at which prices varied, or the character of the times, from the point of view of the steel industry, anyway.

THE WITNESS: When they do not want the business. In other words, when they are up to capacity.

By MR. REED:

Q. When they are not up to capacity, you find them competing for your business?

A. Very actively.

Q. Does that competition extend to price quotations as well as other matters?

A. Yes.

Q. I suppose there are differences in their ability to deliver at different times, too, are there?

A. Yes.

Q. Do you consider that as well as price?

A. Absolutely.

Q. How long have those conditions obtained?

A. There has been no change whatever since I have had any knowledge of the business.

Q. That is, in May, 1909, when you began?

A. Yes.

Q. Have you had any difficulty in finding what you feel to be genuine competition for your business?

A. No; none whatever.

Q. Do you know Mr. George F. Baker?

A. No, sir.

Q. Do you know Mr. Charles Steele?

A. No, sir.

Q. Do you know Mr. Norman B. Ream?

A. No, sir.

Q. Are those gentlemen directors of your company?

A. I looked it up and found they were; I did not know it as a matter of fact.

Q. When did you look it up?

A. One day this week; Monday, I believe, of this week.

Q. When did you first learn that those three gentlemen were directors of the Steel Corporation too?

A. On Monday.

Q. How did you learn it?

A. You told me.

Q. Have you ever heard it stated or suggested before that?

A. No, sir.

Q. Has any one of them ever interfered with the management of your office?

A. No, sir.

Q. So far as you know?

A. No, sir.

Q. Has any one of them ever attempted, directly or indirectly, so far as you know, to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Or to divert business to the Steel Corporation?

A. No, sir.

Q. Has any one of the directors of your company, or has any officer from the president down, ever attempted to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Either because of instructions or suggestions from your

officers or directors, or from your own inclination, have you ever favored the Steel Corporation?

A. No, sir.

Q. What influences you to give an order to the Steel Corporation or one of its subsidiaries when you do give an order to them?

A. Price and delivery.

Q. So far as you can see, has it been of any advantage to the Steel Corporation in getting business to have any of its directors also directors of your company?

MR. COLTON: That is objected to on the ground that the witness' answer is immaterial.

MR. REED: His answer is immaterial?

MR. COLTON: That his knowledge is immaterial.

THE WITNESS: No, sir.

MR. REED: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. Rails have been looked after by the president?

A. In his office, yes.

Q. What was the price of bars when you first became connected with the steel purchasing department?

A. I don't know.

Q. Don't you know that the price of bars was low in May, 1909, down to and including November, 1909, as compared with the prices of bars in the early part of 1911?

A. It is a matter of record.

Q. You have no recollection as to the price?

A. No, sir.

Q. Now, you spoke of the mills quoting more uniform prices during periods in which they were filled up?

A. Yes.

Q. Let us see how much you know about that as regards particular periods. Take the period January, 1911, to April, 1911, and the period August, 1909, to December, 1909, do you know, as a matter of fact, whether the prices were not very much more variant during the period from August to Decem-

ber in 1909 than they were during the period from January, 1911, to April, 1911?

A. No, I do not know it.

Q. You do not have any recollection about that?

A. No.

Q. And you do not have any recollection about what sort of periods they were in the steel industry, do you?

A. No.

Q. You do not know, then, as a matter of fact, that during the latter part of 1909 the steel manufacturers were running from 75 to 80 per cent. of their capacity?

A. No, not in that particular period; I could not say that, no.

Q. You do not know that during the early part of 1911 the steel manufacturers were running to only about 50 per cent. of their capacity?

A. No, I could not tell you the months.

Q. Did you ever take pains to inform yourself as to the capacity at which the different steel mills were running at any time during the year 1909?

A. No.

Q. Were you informed as to the extent to which they were running to their capacity in the year 1909?

A. No.

Q. Have you been as to any of the years?

A. Why, I recall distinctly that in 1912 it was difficult to get material delivered because they all claimed to be working to their capacity.

Q. That is the only year you have any recollection about?

A. The only year about which I have absolute recollection.

Q. During the period from the early part of the year 1910 to about May, 1911, when the co-operative movement was on foot, you cannot tell the different periods where prices varied on bars or any other product?

A. No, sir.

Q. And you cannot tell how much it broke at the time Topping advised that he would no longer continue in the co-operative movement?

A. No, sir.

Q. Your knowledge is very general on that, in regard to prices?

A. I do not depend upon recollection, because it is a matter of record in the office.

Q. You have records?

A. Yes, and if I wanted anything I would look at the records.

Q. Do you know whether your purchases in 1912 were the same as in 1909, or the same as any other year?

A. No.

Q. You do not know whether that was an exceptional year with you or not?

A. No, I do not know.

Q. Do you know what companies you purchased your bars from in 1912?

A. In 1912, yes; practically the Republic and Carnegie; that is, in steel bars.

Q. Do you know what percentage you gave the Carnegie and what percentage you gave to the Republic?

A. I believe we bought rather a heavier tonnage in bars in 1912 from the Republic than from Carnegie.

Q. Do you know as to the percentage in any other year?

A. No, but that would hold good in 1913 up to date.

Q. How about 1909 from the Carnegie?

A. I don't know.

Q. Did you buy a large percentage from the Carnegie in both years?

A. Let me see. We are talking about bars?

Q. Yes.

A. Prior to 1911 we used iron; we did not use steel bars. We went to steel in 1911.

Q. And when you went to steel in 1911 do you recall to what extent you gave your bar orders to the Carnegie?

A. No, sir; I can't recall.

Q. During the last two years you have given them a large proportion of your bar orders?

A. They have had bar orders all the time. That is true

of the Republic, and I think both in 1912 and 1913 we bought heavier tonnage from the Republic than we did from Carnegie.

Q. But as to the other two years you do not know whether it was heavier from the Carnegie or heavier from the Republic?

A. No.

Q. What is your best recollection?

A. Of course, as I said before, prior to 1911 we used iron bars.

Q. I mean since 1911; to 1913, inclusive, taking the period as a whole, do you know whether you bought more heavily from the Republic or more heavily from the Carnegie?

A. I should say that for three years we have bought a heavier tonnage from the Republic than we have from Carnegie.

Q. You do not remember the price that the Republic gave you on your steel bars?

A. No, I do not.

Q. Nor the price that the Carnegie gave you on steel bars?

A. No.

Q. From whom have you purchased your shapes since you became purchasing agent of the Erie?

A. The American Bridge Company, Carnegie and Jones & Laughlin.

Q. Do you recall any others?

A. There are doubtless others.

Q. That is all you remember?

A. That is all I remember right offhand.

Q. Do you recall that your purchases were heavier from the American Bridge Company and Carnegie than they were from Jones & Laughlin?

A. No, I don't recall what they were.

Q. You don't recall anything about it one way or the other?

A. As a matter of truth, I could not tell you.

Q. From whom have you purchased your wire products?

A. The American Steel & Wire Company, Roebling, the Pittsburgh Steel Company and probably others.

Q. You have no recollection as to the others?

A. Not specifically.

Q. What wire products have you purchased from the American Steel & Wire Company?

A. Oh, we buy considerable wire from them of one kind and another; we have bought wire nails from them.

Q. Do you know what percentage of wire nails you bought from the American Steel & Wire Company?

A. No, sir; I do not.

Q. Do you know whether you have a general contract, a sort of blanket contract, with the American Steel & Wire Company?

A. We have a contract with the American Steel & Wire Company.

Q. Have you a contract for shapes with Carnegie for this year?

A. I think we have not; I think it lapsed the 30th of June of this year.

Q. This contract that lapsed the 30th of June: when did it begin to run?

A. It may have begun—we make contracts either for six or twelve months.

Q. So it may have been either a year contract or a six months contract?

A. It may have been.

Q. Do you know the quantity of shapes that it called for?

A. No, I would not say, but it was probably a limited contract; probably up to a certain tonnage. That is, a certain number of tons; it may be 300 tons and it may have been 500 tons.

Q. You mean 300 tons for the entire year?

A. Yes, during the period of the contract, whatever it was, up to 300 tons.

Q. You could order to 300 tons?

A. We could if we had that call for it, and we could order 50 tons, if that was all the call we had for it.

Q. Do you have any general contract with the American Bridge Company for fabricated material?

A. No.

Q. Do you recall that you did not?

A. I am pretty sure that we did not.

Q. You would not be positive that you did not have one of those contracts calling for a certain standard of product from the American Bridge Company in fabricated steel?

A. I am reasonably sure that we did not have.

Q. From what different companies have you bought your angle bars?

A. From the Lackawanna and Carnegie.

Q. Are angle bars and splice bars practically the same thing?

A. Yes; practically the same thing.

Q. Different names for the same thing?

A. Yes.

Q. Do you know what proportion you bought from the Lackawanna and what proportion you bought from the Carnegie?

A. I couldn't tell you.

Q. Do you know whether you have more directors in common with the Lackawanna Company or with the Carnegie Company?

A. I do not know that we have got a director in common with the Lackawanna.

Q. You don't know whether you have or not?

A. No.

Q. Do you consult with the president at all in regard to the purchase of products?

A. Well, generally speaking, no.

Q. At times, yes?

A. I was just trying to think if I ever did go to him. As a matter of truth, I do not believe I ever went to him.

Q. Do you consult with any superior officer?

A. Yes; I report to the assistant to the president, and at times I talk with him.

Q. Do you recall from what different companies you purchase your tubes?

A. National Tube Company, Pittsburgh Steel Products Company, and the Globe Seamless Tube Company, Milwaukee.

Q. Do you purchase only seamless tubes from the Globe Company?

A. Yes; that is, just engine boiler tubes, locomotive tubes.

Q. Are your other tubes welded tubes?

A. No; I am talking now about locomotive tubes.

Q. What sort of tubes are those, welded tubes?

A. Seamless boiler tubes.

Q. And you buy those from the National also?

A. From the National and from the Globe, and from the Pittsburgh Steel Products Company.

Q. Are you talking only about seamless tubes at the present time?

A. That is all I am talking about now.

Q. And that is the only character of tubes that you purchase?

A. We may have got some other mechanical tube of some kind, but generally speaking, that is what we call tubes.

Q. Do you know what percentage of your purchases you gave the National Tube Company in seamless tubes?

A. No, I do not.

Q. Don't you know that it was a large percentage in seamless tubes?

A. I would say that it would approximate, say, 33 1/3 per cent. to each company. Now, it would not figure out that way, but practically that way.

Q. You divided it about equally between the three companies?

A. That was the idea, that it would be divided.

Q. Where is the Globe Seamless Company located?

A. Milwaukee.

Q. Milwaukee?

A. Yes, sir.

Q. Have you any allied line that goes out there?

A. No, sir.

Q. Chicago is the nearest you come to that?

A. Yes.

Q. Do you purchase for the entire Erie road?

A. Yes.

Q. Do you purchase for its allied lines?

A. Well, what is generally known as the Erie Railroad, all the roads known generally as the Erie.

Q. What are they?

A. The New York, Susquehanna & Western, the Chicago & Erie, New Jersey & New York.

Q. How much difference in price is there between these three companies among which you divide your seamless tubes equally?

A. There was not any difference.

Q. They are just the same?

A. All the same price.

Q. What is the difference in price between the Republic Company and the Carnegie Company on steel bars?

A. No difference.

Q. The same price?

A. Yes.

Q. Did you buy wire from anybody except the American Steel & Wire?

MR. REED: He has already testified that he bought it from Roebling.

THE WITNESS: Yes, we bought wire from Roebling, and from the Pittsburgh Steel Products Company.

By MR. COLTON:

Q. The Pittsburgh Steel Products Company?

A. The Pittsburgh Steel Company.

Q. The Pittsburgh Steel Company?

A. Yes; fence wire.

Q. Did you buy wire nails from anyone except the American Steel & Wire Company?

A. Yes, we bought wire nails from different people. We bought wire nails from jobbers at times.

Q. From any other manufacturers, other than the American Steel & Wire?

A. Yes; the Pittsburgh Steel Company.

Q. The Pittsburgh Steel Company?

A. Yes.

Q. Did you buy the same character of wire from both the American Steel & Wire Company and the Pittsburgh Steel Company?

A. No; that is to say, we have bought fence wire from both companies, but we did not buy any wire save fencing from the Pittsburgh Steel Company.

Q. Then there are certain wires that you have bought only from the American Steel & Wire Company?

A. No; I do not think so. We bought probably the same thing from Roebling.

Q. What steel wire did you buy from Roebling that was the same as the steel wire that you bought from the American Steel & Wire Company?

A. Why, plain galvanized wire.

Q. Do you recall the price that you paid Roebling for that plain galvanized wire in 1913?

A. No, I do not.

Q. Do you recall the price you paid the American Steel & Wire Company?

A. No.

Q. Do you remember whether they were the same or different for the year 1913?

A. No, I do not.

Q. Your answer would be the same for 1912?

A. Yes.

Q. And for each of the years you have been connected with the company?

A. Yes, sir; because it is a matter of record.

Q. How about shapes? From what different companies do you purchase your shapes?

A. Oh, we buy from the Republic and from Carnegie.

Q. What sort of shapes did you buy from the Republic?

A. Well, ordinary shapes. I do not know; I could not specifically tell you one shape we bought from them.

Q. Do you know whether the Republic manufactures

shapes or not, what are ordinarily known as structural shapes?

A. Well, I do not know as they do, no.

Q. Did you buy ordinary structural shapes from the Carnegie Company?

A. Yes.

Q. But you do not know whether you bought any of those from the Republic or not?

A. No, I would not say so. I think we did, however.

Q. Your fabricated material; you purchase that by letting special contracts, do you?

A. The majority of the fabricated work is done by contract, under the jurisdiction of the engineer of bridges and buildings. I would not have anything whatever to do with that.

Q. You are not connected with that?

A. No, sir.

Q. And your testimony does not concern fabricated material?

A. Not generally speaking; no, sir.

Q. To what extent have you purchased plates during the time you have been connected with the company?

A. Well, of course, we have bought a lot of plates.

Q. Could you give me any idea of the tonnage?

A. No; I could not.

Q. Could you tell me from whom you purchased them?

A. Well, we buy from the Otis Steel Company, and Worth, Lukens, and possibly others.

Q. Do you know whether you bought any from Carnegie?

A. Why, I expect we have.

Q. Could you give me the percentage that you bought from each of those companies?

A. No, I could not, sir.

Q. You have not any idea of the percentage?

A. No, sir.

Q. And you have not any idea as to the variation in prices from time to time between those different companies, have you?

A. No information, except—no, it is a matter of record. I do not charge my mind with it.

Q. Could you say during the year 1913 which different companies you have contracts with in plates?

A. Well, we have a contract with Otis, covering our fire box steel.

Q. Yes. Is that the only kind of steel that you are buying from Otis?

A. Yes, sir.

Q. Fire box steel from Otis?

A. Yes.

Q. What do you have from Lukens, Worth and Carnegie, if you know?

A. Boiler plates.

Q. Boiler plates then is the only style you are buying from those other three, or do you buy some fire box from them also?

A. No; we get our fire box from Otis only, because it is most satisfactory and meets our specifications and requirements.

Q. Yes. Now, have you any idea as to whether the prices of these three companies during the year 1913 have been the same or different?

A. Well, at the present time, and since the 30th of June—that is to say, July 1st—our contracts have been with Lukens on boiler plate.

Q. That is, you have been confined to Lukens since that time?

A. Yes.

Q. And going back of that time, can you carry in your mind as to whether the prices, as between the different companies from whom you have purchased, have been the same or different?

A. No, sir.

Q. Are there any steel products that you purchase that I have not asked you about?

A. I do not know whether there are or not. I will swear I do not.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By Mr. Reed:

Q. Mr. Collins, you have testified that certain of your purchases of seamless tube and of steel bars were let to two or three different concerns—divided up among two or three different concerns, at the same price?

A. Yes.

Q. When you refer to the sameness of price, does that mean the price first quoted to you by those companies, or the price at which the contracts were finally let?

A. The prices at which the contracts were finally let.

Mr. Colton: I object to that question, if you are using the term sameness in the sense of the sameness of the price in regard to all the different statements he has made in regard to sameness of price, because I think that does not inform the witness as to what he is answering. If it is simply the sameness of price as to these contracts which are at the same price, I have no objection to the question; otherwise I object to the question on the ground that it is misleading.

By Mr. Reed:

Q. Where you get variant bids in respect to a particular inquiry, do the higher bidders ever reduce their bids, Mr. Collins, in an effort to get all or a share of your business?

A. They certainly do.

Q. And is that what happened in these two cases?

A. It absolutely happened.

Mr. Reed: That is all.

Mr. Colton: That is all.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

JOHN D. LANDIS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Reed:

Q. Where do you live?

A. In Jenkintown, Pennsylvania.

Q. That is near Philadelphia?

A. Yes.

Q. And your office is in Philadelphia?

A. Yes.

Q. What is your present occupation?

A. Purchasing agent of the Philadelphia & Reading Railway Company and of the Central Railroad Company of New Jersey.

Q. How long have you been purchasing agent of the Philadelphia & Reading Railroad?

A. Between sixteen and seventeen years.

Q. How long have you been purchasing agent of the Central Railroad of New Jersey?

A. I think about ten or eleven years.

Q. How long have you been in the purchasing department of the Philadelphia & Reading?

A. Thirty-two years.

Q. In addition to making the purchases for those companies, do you buy also for any others?

A. The Philadelphia & Reading Coal & Iron Company and the Lehigh & Wilkes-Barre Coal Company.

Q. Those are both of considerable size, are they not?

A. The Coal & Iron Company is very large.

Q. Just so that we may get some idea of your importance as a purchaser, will you please state the railroad mileage that you act for, in round figures?

A. I have really forgotten. I suppose 1,200 miles, anyway.

Q. Can you give us any idea of the size of these two coal companies for which you buy?

A. I presume the Coal & Iron Company have 35 or 40 collieries, at least.

Q. How about the Lehigh & Wilkes-Barre Coal Company?

A. I presume they have 10 or 12.

Q. Do you know approximately the annual output of those two companies in anthracite coal?

A. I presume it is 40 per cent. of the entire output of anthracite coal.

Q. Of the United States?

A. I should think so.

Q. About what tonnage of steel products do you buy in the course of a year?

A. I should say 65,000 to 70,000 tons on an average.

Q. Do you make the purchases of the heavy rails for the railroad companies, or is that done in the president's office?

A. The president determines that.

Q. And the connection of your office with it, I suppose, is largely mechanical?

A. Yes.

Q. Do you have charge of the purchases of the other steel products?

A. Yes, sir.

Q. Will you give us some idea of the variety of the steel products which you buy?

A. Axles, bars, plates, structural material.

Q. Plain and fabricated, both?

A. Yes, sir—not very largely fabricated, because that is let under contract, but we do buy some.

Q. Do you buy sheets?

A. Sheets, tie plates, splice bars, bolts and spikes.

Q. Mine rails for the coal companies?

A. Yes, mine rails.

Q. And car wheels?

A. A few steel car wheels.

Q. Wire nails?

A. Yes.

Q. Telegraph wire?

A. Yes.

Q. Welded pipe?

A. If you mean by that, boiler tubes, I would say yes; we buy wrought iron pipe.

Q. Your welded pipe is wrought iron pipe, is it?

A. The welded pipe is wrought iron.

Q. Are your boiler tubes of seamless tubes or do you use a welded boiler tube too?

A. We use both iron and steel.

Q. The steel tube that you buy is seamless, is it, or is it welded?

A. It is a seamless tube.

Q. Do you buy on contracts for specified periods, or do you buy from time to time as you need the material?

A. That depends; on a rising market, if we could contract at the old figures, we would do it for a period maybe of six months or longer, but when we are not sure as to market conditions we are inclined to buy from month to month as the requisitions are received.

Q. So as to get the advantage, I suppose, of dropping prices?

A. I do not think a purchasing agent ought to speculate; that is all.

Q. Then you buy in both ways; sometimes on periodical contracts?

A. Yes, sir.

Q. And sometimes in lots, as you need the material?

A. Yes, sir.

Q. Before you let these contracts, or before you give your orders, do you ask quotations from different manufacturers?

A. Yes.

Q. Of these products that you have mentioned?

A. Yes.

Q. How do those quotations range in price; do they vary or are they uniform?

A. They vary.

Q. Are there any exceptions to that rule?

A. During times when the mills are filled up with work there is likely to be a number of prices the same.

Q. How about the deliveries that are offered you in such times as that?

A. When I say the prices are the same, I make this proviso, that we are compelled to buy from stock at a higher price than the other uniform bids in order to get the deliveries in time. I presume that is what you mean?

Q. No, it was not what I meant. I wanted to know just what the facts were. Take these uniform prices that are quoted to you in times when the mills are very busy. Are those offers of prices coupled with assurances of quick deliveries or of longer deliveries?

A. Longer deliveries.

Q. In order to get the material within a reasonable time do you have to pay higher prices than those?

A. Yes, sir.

Q. Now, excluding those periods from consideration and considering only the times when the mills need the business, what is your experience as to the variation or non-variation of the prices that are quoted to you?

MR. COLTON: I object to the witness testifying as to that, as he is not shown to be qualified to testify as to the particular times, or that he knows the particular times at which the mills need business and at which they do not need business.

THE WITNESS: The prices vary.

By MR. REED:

Q. Would you say that there is or is not a keen competition among the steel manufacturers for your business in these articles?

MR. COLTON: I object on the ground that it calls for a conclusion, as to a large number of products of such large character that the witness may not, and probably does not, have them all in his mind, and for the further reason that it calls for a conclusion upon a state of facts not disclosed to the court.

MR. REED: I will call counsel's attention to the fact that the witness expects to remain to be cross examined.

THE WITNESS: Yes, sir.

By Mr. Reed:

Q. You mean by that to say there is keen competition?

A. Yes.

Q. Do you know Mr. George F. Baker, Mr. Landis?

A. No, sir.

Q. Do you know him if you see him?

A. No.

Q. Do you know whether he is a director of either the Reading or the Central of New Jersey?

A. I think he is of the Central.

Q. Do you know that he is also a director of the Steel Corporation?

A. I only knew it recently.

Q. That is when I told you?

A. Yes.

Q. Do you know Mr. Henry C. Frick?

A. No, sir.

Q. Is he a director of either of your companies?

A. Of the Reading Railway.

Q. You know now that he is a director of the Steel Corporation too, do you?

A. Yes.

Q. Do you know Mr. Charles Steele?

A. No, sir.

Q. He is a director, is he not, of the Central Railroad of New Jersey?

A. I think he is.

Q. And he is also a director of the Steel Corporation?

A. Only since you told me.

Q. You only know that last by hearsay?

A. Yes.

Q. Has either one of those three gentlemen ever attempted in any way to influence you in favor of the Steel Corporation?

A. No, sir.

Q. Has either one of the three ever attempted, so far as you know, to divert the business of either the Philadelphia and Reading Railway or the Central Railroad of New Jersey to the Steel Corporation?

A. No, sir.

Q. Has any director or any officer of either of those companies at any time, Mr. Landis, attempted to induce you or to instruct you to favor the Steel Corporation in awarding your orders?

A. No, sir.

Q. Have you ever favored the Steel Corporation except because of its offer of a better price, better delivery or better quality?

A. No, sir.

Q. Has any other influence, I mean outside of price, delivery or quality, determined the awarding of your orders to any supply man or material man?

MR. COLTON: Objected to on the ground that the witness is incompetent to answer.

THE WITNESS: No, sir.

By MR. REED:

Q. Do you think you would know it?

MR. COLTON: I object to the question as argumentative.

By MR. REED:

Q. (Continuing) Do you think you would know it if some influence like common directorship were operating to the disadvantage of your company, or operating to take business to the Steel Corporation which it was not meriting by the terms that it offered to you?

A. I certainly would know about it, because I place the orders.

MR. REED: You may cross examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. What were you doing in the year 1895?

A. In 1895 I was either chief clerk or assistant purchasing agent; I think I was assistant purchasing agent in 1895.

Q. And you were assistant purchasing agent of what different companies?

A. That was of the Philadelphia & Reading.

Q. In 1895?

A. That is eight years ago.

Q. No, 1895.

A. Yes, I was assistant purchasing agent of the Philadelphia & Reading Railway Company.

Q. Did you have any other connection at that time with the purchase of steel supplies?

A. While I was assistant purchasing agent I did not have charge of the steel purchases.

Q. When did you first have charge of the steel purchases for any of the different companies that you have represented in any capacity?

A. 1896 or 1897, when I became purchasing agent.

Q. When you became purchasing agent?

A. Yes; 1896; that is it.

Q. What steel supplies did you purchase in the years 1896 and 1897?

A. Axles, structural material, bars, plates and sheet.

Q. Anything else?

A. I do not think tie plates were used then, and we were using iron angle bars; that is my recollection. I am a little hazy back that far.

Q. From whom did you purchase steel bars at that time?

A. We have almost continuously been purchasing steel bars from the Cambria, Carnegie and Jones & Laughlin, and I think we purchased that long ago of the C. Pardee Works.

Q. Do you recollect whether you were purchasing any at that time from the many different mills that afterwards became part of the American Steel Hoop Company?

MR. REED: That is in bars?

MR. COLTON: Yes.

THE WITNESS: We never purchased anything from the American Steel Hoop Company that I recollect.

By MR. COLTON:

Q. And you do not recollect the names of their subsidiaries?

A. No.

Q. Do you recollect purchasing any steel bars from the Ohio Steel Company or the National Steel Company?

A. No, sir.

Q. The only companies that you recollect are the Cambria, Jones & Laughlin and the Carnegie?

A. And C. Pardee Works.

Q. Where are the C. Pardee Works located?

A. On the Central Railroad—it is just outside of New York here. I cannot recall just at the moment where.

Q. Do you know in what form C. Pardee gets his steel?

A. No; I think they simply roll it.

Q. Do you know whether they are re-rollers or not?

A. No, not re-rollers.

Q. When did you first go to their works, if at all?

A. Why, I have never been to their works. I have never been to their works.

Q. You do not know to what extent they buy steel on the outside for their sales, do you?

A. No. They are reputed to be manufacturers; that is about all I know.

Q. Do you know when they were first reputed to be manufacturers?

A. Ever since we have purchased from them.

Q. Do you now recall, as a matter of recollection, that you purchased anything from the Cambria Company during 1896, 1897 and 1898 in the way of steel bars?

A. I could not say that positively, but I think we did.

Q. How about Jones & Laughlin during those three years?

A. The same answer.

Q. How about Carnegie during those three years?

A. Same answer.

Q. Then you have no positive recollection as to from whom you purchased during those three years?

A. My recollection is that the orders were divided between those three or four parties. That is as definite as I can give it to you.

Q. Do you know from whom you were purchasing plates during 1896 and 1897?

A. I think I do. Worth Brothers, Lukens, both at Coatesville; Central Iron & Steel Company, at Harrisburg, and the Glasgow Iron Company at Pottstown.

Q. Did you purchase any from Carnegie?

A. We never purchased any plates from Carnegie, to the best of my recollection.

Q. From the Pencoyd Works?

A. No. Bars from the Pencoyd Works; bars and structural material.

Q. Bars?

A. Yes.

Q. Did you purchase bars from the Pencoyd Works during 1896, 1897 and 1898? Is that your recollection?

A. That is my recollection; yes, sir.

MR. REED: Do you mean eye-bars or plain bars?

THE WITNESS: Plain bars.

By MR. COLTON:

Q. Did you purchase bars from Carnegie and Cambria and Jones & Laughlin and the Pencoyd Works, to the best of your recollection, during the period from 1896 to 1900?

A. To the best of my recollection. You know, you are getting some distance back.

Q. You say to the best of your recollection. Do you mean to the best of your recollection that you did, or that you did not?

A. I believe that we did.

Q. Where did you purchase your structural material during the years 1896 to 1900?

A. As far as I can recollect, the following manufacturers have been on our list since I have been connected with the Company; that is, the Phoenix Iron Company, the Eastern Steel Company, probably they came in later, though; their plant had not started at that time; the Carnegie Steel Company, Jones & Laughlin, and the Cambria Steel Company.

Q. Now, during the period from 1896 to 1900 do you recollect as to whether you purchased any structural material from the Pencoyd Works?

A. I could not say positively as to that. I have given you the general information there, and that is all I can do as to that.

Q. What is your best recollection; that you did purchase

some structural material from the Pencoyd Works, or that you did not?

A. It is quite likely that we did.

Q. What is your best recollection as to whether you purchased any structural material from the Pencoyd Works prior to the formation of the United States Steel Corporation? That was formed in the early part of 1901.

A. We did purchase from them prior to that time—from the Pencoyd Iron Works.

Q. Could you tell to what different places the railroads with which you are connected run?

A. Yes. On the Central, from New York to Scranton, and on the Reading, from Bound Brook to Williamsport and Newbury Junction, and to Shippensburg in the other direction beyond Harrisburg, and then all through the coal regions, of course.

Q. Do you recollect the great drop that occurred in steel prices shortly prior to the formation of the United States Steel Corporation?

A. No, I do not.

Q. You have no recollection as to the prices of steel products during the year 1900?

A. No, I have not.

Q. You have no recollection, then, as to the great increase in prices that occurred about the time of the formation of the United States Steel Corporation, in steel products?

A. No, sir.

Mr. Reed: I object to that question, there being no evidence of any great increase in prices about the time of the formation of the Steel Corporation.

Mr. Colton: It has been proved again and again.

Mr. Reed: I do not think so.

By Mr. Colton:

Q. What tonnage of bars were you buying in 1900?

A. I would only have to get at it on the percentage of the whole. The purchase of steel bars was comparatively light, because we used iron.

Q. During 1900?

A. Yes, sir.

Q. Or has that continued to be the case up to the present time?

A. That has continued to be the case up to the present time.

Q. What percentage are steel bars of the total purchases of bars; can you give it roughly for the period of 1900 to 1913, inclusive?

A. I cannot do that very well.

Q. Would it be three-fourths iron, to the best of your recollection for that period?

A. You are not asking for anything positive?

Q. I am asking for your best approximate recollection.

A. I should think the iron bars were at least two-thirds.

Q. And as you go back from 1913 will it be rather more than two-thirds as we go back, or did the proportions stay about the same?

A. Approximately the same.

Q. Could you give me any idea as to your total purchases in bars for any of the years from 1900 to 1913, inclusive?

A. I could not very well do that without looking up the record.

Q. Could you state as a matter of recollection from what companies you solicited bids in 1910, on steel bars?

A. My other answer would be all that I could tell you from these five or six or seven companies that I mentioned.

Q. I did not understand you to say that you did solicit bids in any given years, though, from all of these companies. You testify that you did solicit bids from all of those companies in any given year?

A. I think I am safe in saying we did.

Q. Do you recollect that you solicited bids from the Cambria Company in 1901?

A. As I say, they have been on our list and we have asked them all to quote prices ever since I was purchasing agent.

Q. But do you now have any recollection that you did solicit bids from the Cambria Company in the year 1901?

A. Only that they had been on our list to request quotations, and we have been asking that list for quotations.

Q. As a general rule?

A. As a general rule.

Q. What contracts did you have in the year 1901?

A. I could not tell you that, sir.

Q. You do have contracts at times to cover the majority of your supplies, don't you?

A. Not necessarily.

Q. But I mean at times you have a contract to cover the majority of your supplies, don't you?

A. It depends upon the market conditions. On an ascending market we would naturally endeavor to make all the contracts we could.

Q. And you do not know whether the year 1901 was an ascending market or not?

A. No; I do not know.

Q. And you do not know whether you had contracts then or not?

A. No; I could not tell that.

Q. 1902; did you have any contracts with any different companies?

A. I would have to give you the same answer for those different years because I do not recollect.

Q. 1903; would that be the same answer?

A. I can only give you a general answer that we did have contracts on an ascending market, and on what we considered a no change or a declining market we bought from month to month.

Q. But you could not specify now the periods in which you had a declining market, a no change market and an ascending market, could you?

A. No, I do not think I could.

Q. These periods of time you do not retain in your mind?

A. No, sir.

Q. So as to fix them for any set periods?

A. Of course, I have a record of them in my office.

Q. What contracts have you for the year 1913 for bars?

A. We haven't any excepting for cold rolled steel.

Q. Do you mean cold rolled steel bars?

A. Yes; that is a very small item, however.

Q. How much is that in tonnage?

A. Oh, about five or six carloads a year.

MR. REED: This is for which year?

THE WITNESS: That has been about the average.

By MR. COLTON:

Q. With which company is that contract for cold rolled steel bars?

A. The present contract is with Jones & Laughlin.

Q. And with which company was it in 1912?

A. In 1912 we had contracts with the Cambria, C. Pardee Works and Jones & Laughlin.

Q. 1910?

A. I don't know.

Q. 1911?

A. I cannot tell.

Q. The same answer for all years back of 1911?

A. I just happen to know of these two years because they are recent.

Q. You do not recall the particular periods of time during the years 1901 to 1910 inclusive during which the prices on plates have been uniform among a large number of manufacturers, and the times in which there have been more variations on plates, do you?

A. No, sir.

Q. Is the same thing true in regard to structural steel?

A. Yes; during that period I would not know excepting that when the mills were very busy and we were promised a three or four months delivery on our orders, that then the prices were more likely to be uniform, and frequently we did not buy even at the lowest price because on extended delivery we had to pay higher prices.

Q. Now, suppose we take up a period of time such as existed during 1908, following the so-called panic, and compare that with the period of time that existed in 1909 following the announcement of Judge Gary that he would withdraw from the co-operative movement; do you now recollect how the prices of steel products in 1908 compared with the prices during 1909?

MR. REED: I object to that question because the witness has not testified anything about either the panic or the so-called co-operative movement.

THE WITNESS: No; I do not recollect. There might have been a slight difference of five cents a hundred, or something like that.

By MR. COLTON:

Q. May there not, in 1909, after February 19th, have been a drop of something like five dollars a ton in bars, for example?

A. Not to my recollection.

Q. Didn't bars go down from about $1.40 to about $1.05 per hundred at that time?

A. I do not know when we bought bars at $1.05.

Q. You did not get in on that?

A. No; I guess not.

Q. Do you now have any recollection as to the extent which the mills were filled up with orders in 1908, as compared with the year 1909?

A. No.

Q. Did you ever have any knowledge as to the extent to which the mills were filled up to their capacity during those respective years?

A. No, sir.

Q. Have you ever had that for any of the years from 1900 to date; if so, state what year.

A. A year or two, the prices were higher and the mills were full.

Q. That occurred some time in 1910 or 1912; which year have you in your mind, if either of those years?

A. I think about 1911 or 1912.

Q. Now, in 1911, the early part of it, do you recall that at that time the prices were rather uniform?

A. I do not recall; possibly they were.

MR. REED: Is there anything in the record to warrant your question that the price of bars went down to $1.05 in 1909?

MR. COLTON: It has been so testified to; I do not know whether it is a fact or not. That is my best recollection, Mr. Reed.

MR. REED: Looking at Government Exhibit 246, the lowest price there appears to be $1.18.

MR. COLTON: I think a witness testified the other day that $1.05 was the lowest price he got it at. He testified to that, as I remember.

By MR. COLTON:

Q. Do you recall that following the announcement by Mr. Topping that he would withdraw from the so-called co-operative movement, about May, 1911, there was a drop in prices in 1911 in steel products?

MR. REED: I object to that, because there is no evidence from this witness as to any announcement by Mr. Topping.

THE WITNESS: No, I have no knowledge of that.

By MR. COLTON:

Q. Have you any recollection of any drop in prices in 1911 in steel products?

A. No, I have not.

Q. Do you know how the prices of plates varied during the years 1901 to 1905, inclusive?

A. No, I do not.

Q. Do you know the extent to which prices were uniform during that period?

A. No, I do not.

Q. Now, you spoke of—or at least I understood you to speak of a certain uniformity of price, to the best of your recollection, existing during some time in 1911.

MR. REED: I don't remember any such testimony.

MR. COLTON: I think he did so testify, and I am just asking him now.

THE WITNESS: The only recollection I can give you is that when the mills were filled up with work and the deliveries were extended the prices were more nearly uniform than at any other time. I can not keep in mind when the prices had advanced.

By MR. COLTON:

Q. I understood you to say a moment ago that you could not tell me any of the times, and never were informed as to when the mills were full and running to their capacity, and

when they were half full or three-quarters full, that you never were informed in regard to those conditions.

A. The only way I could assume that is because of the extended delivery.

Q. Do you undertake to testify, as a matter of fact, that the prices during 1908, at which time the mills were running to about one-half of their capacity, were less uniform than they were in the year 1909, during which period of time the mills were running from 50 to 80 per cent. of their capacity?

A. We always found them to be less uniform when the mills were less busy. I do not know about that; I can only give you a general statement, as I did before.

Q. What steps did you take during the years 1901, 1902, 1903, 1904 and 1905, whenever there were uniform prices, to find out whether the mills were running full or not?

A. I did not take any steps; only the time of delivery showed that to me; that is all. If a mill would say that they could not deliver in three months, it would indicate that they were pretty busy.

Q. Don't you know that there was a plate pool during the years 1901 to 1905?

A. No, sir; I do not know anything about any pools.

Q. You noticed a uniformity of prices at times?

A. Yes.

Q. And they extended over considerable periods of time, at different periods?

A. Now, what are you referring to?

Q. A period of uniform prices.

A. No, but specifically.

Q. You want different products?

A. Yes.

Q. Suppose you take plates; there have been periods of times for which they were uniform, have there not?

A. Yes.

Q. And they have at times extended over considerable periods of time?

A. I do not know how long that period might have been.

Q. But there have been such periods?

A. There have been such periods, yes.

Q. And is the same thing true of structural?

A. Only at times, when, as I say, the mills were very busy.

Q. Now, don't you know, as a matter of fact, that all during the period of 1901 to 1904, inclusive, there was a tight pool that had a minimum price on structural? Didn't you become aware of that fact as a purchaser of steel products?

A. That there was a minimum price?

Q. Yes.

A. I will tell you why I did not. The Phœnix Iron Company and the Eastern Steel Company are located immediately along the line of our road, and they frequently quoted f. o. b. cars at their plants; the Pittsburgh manufacturers had to quote f. o. b. destination, and we found it to our advantage to buy along the line of our road on account of the freight.

Q. You purchased what sort of material from those two companies?

A. Structural material.

Q. Chiefly from those two companies?

A. Yes.

Q. What sort of structural do you purchase from those two companies?

A. Angles, channels, T's and Z's—almost everything in the line of structural material.

Q. Now, is that fabricated or unfabricated?

A. Unfabricated.

Q. You have a special purchasing department for the fabricated steel, have you?

A. Yes; that is generally let under contract. We buy a little of it.

Q. Now, have there been periods of such uniform prices in sheets?

A. Never, that I know of.

Q. What sort of sheets do you buy?

A. We buy chute steel and galvanized plates.

Q. Then I take it from what you have said there has been greater uniformity in price in respect to plates than there has been in respect to sheets; is that correct?

A. That may be.

Q. Compare plates and bars as regards the extent of uni-

formity. Is there more uniformity in respect to plates or in respect to bars, so far as you have become acquainted with the situation?

MR. REED: What period are you speaking of now, Mr. Colton?

MR. COLTON: From 1901 to 1913.

THE WITNESS: Well, if there was any difference there was a greater uniformity in plates than bars.

By MR. COLTON:

Q. And less uniformity in sheets than in either of those two products, to the best of your recollection, was there?

A. Possibly.

Q. Now, I did ask you what sort of sheets you bought, but will you answer that again? I want to get that down.

A. Excuse me.

Q. The kind of sheets that you buy?

A. Chute, galvanized iron, jacket; that is all that I have in mind now.

Q. What is this chute galvanized iron? Does that mean——

A. (Interposing) No; chute is one thing and galvanized is another.

Q. Oh, I will separate my questions, then. Are galvanized iron sheets iron sheets or are they steel sheets?

A. Well, they are half and half. As a general thing we know we are getting steel when we say "galvanized sheets" and when we ask for galvanized iron sheets we get iron.

Q. You do buy galvanized steel sheets as well as galvanized iron sheets, do you?

A. Yes, sir.

Q. From what different manufacturers have you bought galvanized steel sheets, say, for the period 1901 to 1910?

A. Well, I do not know. If you will come more nearly to date I could probably tell you.

Q. We will first get it for that earlier period, and then we will come down to date on it.

A. I would not like to state definitely as to that.

Q. You do not recollect what different concerns you were

buying galvanized steel sheets from during the period 1901 to 1910?

A. No; because I am not sure whether we bought steel at that time.

Q. What is the first year that you are sure that you bought any steel sheets?

A. I suppose about four years ago; something like that would be safe.

Q. It would be either along about 1910 or 1911, then, would it?

A. Yes, sir.

Q. You are positive that you bought galvanized steel sheets in the year 1911, are you?

A. Yes; I think so.

Q. What different concerns did you buy galvanized steel sheets from during the year 1911?

A. From the McCullough Iron Company, at Wilmington, and different brokers in Philadelphia, and, possibly, the American Sheet & Tin Plate Company.

Q. What is the first year that you are sure you did purchase from the American Sheet & Tin Plate Company, if you are sure of any year?

A. Well, I know we did in 1912.

Q. Did you have a contract with them in 1912?

A. No, sir.

Q. How much tonnage of galvanized sheets did you purchase from them during the year 1912?

A. I could not tell you that. Our consumption of galvanized sheets is not very large.

Q. Then you are not very familiar with the sheet market for any period, are you?

A. Excepting the chute.

Q. Excepting the chute?

A. Yes.

Q. Well, I mean this galvanized sheet.

A. No, sir.

Q. You are not very familiar with the market or prices in that style of sheets?

A. No; I could not give you the prices now.

Q. Could you give me the variations in prices for any one year in galvanized sheets as between the different manufacturers?

A. The McCullough Iron Company were generally the lowest bidders.

Q. Did you buy both iron and steel from them?

A. The iron we bought more frequently from the Alan Wood Iron & Steel Company.

Q. The only different companies that I have for galvanized sheets, from which you have testified you purchased galvanized steel sheets, are the American Sheet & Tin Plate Company, and McCullough, and certain brokers. Can you think of anybody else?

A. No, I do not, now.

Q. What are these chute sheets? What purpose is that used for?

A. It covers the chutes over which the coal runs into the cars from the mines.

Q. How thick is that sheet?

A. They range from—let us say, No. 12, 14 and 16; principally 14 and 16.

Q. 14 and 16 inches?

A. No; thickness.

Q. That is the gauge?

A. Yes.

Q. And the gauge goes by thickness?

A. Yes.

Q. What character of steel is that?

A. It is probably the cheapest sheet steel on the market.

Q. It is low grade sheet steel?

A. Yes, sir.

Q. From what different companies do you get this low grade sheet steel?

A. Principally from John Wood & Brothers Company, Alan Wood Iron & Steel Company, John Wood, Jr., & Company, who are brokers; I do not know whom they represent; probably the Allegheny Steel Company; and the American Sheet & Tin Plate.

Q. What contracts, if any, did you have with the American

Sheet & Tin Plate Company for this low grade chute steel during the year 1913?

A. None.

Q. During the year 1912?

A. We never had any contract with them on the chute steel.

Q. Did you have any contracts with any of these different companies?

A. For chute steel?

Q. Yes.

A. We might have had a contract extending over two months or something like that.

Q. Could you give any approximation as to the per cent. that you have given to these different companies of chute steel?

A. The orders were principally divided between John Wood and Alan Wood. They had mills right along the line of our road.

Q. They are located right on your line?

A. Yes.

Q. It is a low grade product, and the freight rate is quite an item with it, I suppose?

A. I presume it is. I do not mean to say that they make only low grade material.

Q. Oh, no.

A. They make the highest grade, too.

Q. But you buy this low grade material from them for this purpose?

A. Yes.

Q. What is this jacket sheet used for?

A. That is for locomotives.

Q. What sort of sheet is that? What gauge?

MR. REED: That is a planished sheet, is it not?

THE WITNESS: No. Well, I guess probably it is planished steel. It is .065 or .085; something like that in thickness. The Birmingham or decimal wire gauge.

By MR. COLTON:

Q. And is this a low grade sheet or a high grade sheet?

A. Jacket sheet is not a high priced steel.

Q. Would you give the different companies from which you purchased that? First, give the different companies from 1901 to 1910 from whom you purchased that character of steel?

A. I do not know whether we purchased jacket steel that far back. We used to use iron for that purpose.

Q. What is the first year that you recollect that you did purchase jacket steel?

A. I could not very well tell you. Probably four or five years; something like that.

Q. Suppose you take the year 1911; would you have a positive recollection that you did purchase jacket steel during that year?

A. That is, two years ago?

Q. Yes.

A. Yes.

Q. 1910; would you have a positive recollection that you purchased it during that year, or do you have a positive recollection that you purchased it?

A. No, not positive. It has been some few years. That is all I can say.

Q. Take 1911; that is the first year that you have a positive recollection that you purchased it? From what different companies did you purchase jacket steel during the year 1911?

A. Alan Wood, John Wood, American Sheet & Tin Plate.

Q. Can you tell how you divided that purchase among those three different companies?

A. No, but the American Sheet & Tin Plate got very little of it, because of their location especially.

Q. Then your testimony in regard to jacket sheet steel is that it applies only to the last two years, that you can be certain of, since 1911?

A. I will say that is all that I can be positive about.

Q. Now, take tie plates. When did you first begin to buy steel tie plates, to the best of your recollection?

A. I presume about four years ago.

Q. You purchased that for about four years?

A. Yes.

Q. From what different companies have you purchased tie plates during the last four years?

A. From the Pennsylvania Steel Company; Dilworth, Porter & Company, and Pittsburgh Forge & Iron Company.

Q. Any other companies?

A. Not that I recall.

Q. Did you know that the Dilworth Company got practically all of its raw steel from the Carnegie Steel Company?

A. No, sir.

Q. What do you pay per ton for tie plates?

A. The prices range from $1.45 per 100 pounds to $1.65, depending upon market conditions.

Q. Have you observed periods of uniformity in price on tie plates?

A. No, sir.

Q. Tie plates have not had these periods of uniformity, to the best of your recollection?

A. I would not like to say that. We got our tie plates for a couple of years almost entirely from the Pennsylvania Steel Company because they had the rolls to put the plates in of our size, that the other mills did not have.

Q. So, during those two years you felt as if you were sort of out of the general market for the purchase of tie plates?

A. I tried to get in touch with it as near as I could, but we could only get our particular form from the mill that had the particular rolls.

Q. You do not mean to say that there were not other mills in the country that could roll tie plates?

A. If they had put in the rolls, they could, but they wanted us to give a guarantee of a certain sized order to make up the rolls. It is an expensive operation.

Q. As I understand it, you wanted a particular style of tie plates that called for special rolls, and the only company that wanted to take your order under those circumstances was the Pennsylvania Company?

A. Yes, at that time; it is a little different now.

Q. When you say "now" do you mean the last two years?

A. This year.

Q. What different companies are you purchasing from this last year?

A. The Cambria Steel and Pennsylvania Steel and Dilworth, Porter & Company.

Q. And this last year is the only year that you have given your orders generally to several different companies, so far as you recollect?

A. No; when we used smaller plates there were two or three companies that had the rolls.

Q. For what years did you give your tie plate orders to other companies prior to this time that you had the contract with the Pennsylvania Company?

A. Just immediately before, because it was at that time that the size of plate was changed, and before that the three parties that I mentioned there probably supplied them.

Q. What is that?

A. The three parties that I mentioned there; that is, Dilworth, Porter & Company, Pittsburgh Forge & Iron Company and the Pennsylvania Steel Company, furnished them.

Q. Take bolts: from what different companies have you purchased those?

A. We make a great many of our own bolts and our requirements have been principally for iron bolts.

Q. So that you do not feel that you are in a position to testify in regard to the prices and variation of prices on bolts; is that correct?

A. If you would say steel bolts.

Q. Yes, steel bolts.

A. No, sir.

Q. From what different companies have you bought your mine rails?

A. The Williamsport Rail Company, Pennsylvania Steel Company, Carnegie Steel Company and possibly the Cambria Steel Company.

Q. How long have you been purchasing steel mine rails?

A. For a great many years.

Q. Have you noticed these periods of uniformity in the purchase of mine rails?

A. No; they vary a good deal.

Q. What is the extent of the variation in regard to mine steel rails, as between the different mills?

A. You mean at the same time?

Q. Yes, at the same time.

A. It might be as much as three or four dollars a ton. You understand that in mine rails re-rollers are used.

Q. And in getting these re-rolled rails, you get a considerable variation as compared with other rails, or do you get it as between all the other rails?

A. You might say we get it between them all.

Q. Is the re-rolled rail usually a little cheaper than the other style of rail?

A. Usually, I guess it is.

Q. These re-rollers do not need to have any mill for the manufacture of billets?

A. No.

Q. And there are a considerable number of these re-rollers in the country around there; that is, if you know?

A. I know there is one mill, the mill we buy from.

Q. What mill is that?

A. The Williamsport.

Q. Do you buy re-rolled rails from the Carnegie Company?

A. No, sir.

Q. Theirs is a steel rail?

A. So are these others.

Q. I understand, but I mean steel rails on their original rolling, instead of being re-rolled; made of new steel?

A. Yes, sir.

Q. Did you say that you bought from the Cambria Company?

A. Yes, sir.

Q. I suppose the Cambria rails are made of new steel too?

A. Yes, sir.

Q. Do you know what price you paid the Carnegie Company for its steel mine rails in 1913?

A. I cannot tell you positively about that.

Q. Do you know what price you paid the Cambria Company in 1913?

A. I did not buy any of the Cambria in 1913.

Q. Of steel rails made of new steel did you buy from any other company in 1913 than the Carnegie?

A. We got some from the Pennsylvania Steel Company.

Q. Did you buy them at the same time from different companies?

A. No.

Q. Do you know whether you submitted the tonnage of steel that you gave to Carnegie or offered it to the Pennsylvania, to see what they would bid on it, at the same time you offered it to the Carnegie?

A. Naturally.

Q. Well, did you do it?

A. Before we place a contract we canvass the market, yes.

Q. But what I asked you was whether you have any recollection of having done that in this particular case.

A. Yes; we asked them all.

Q. What do you mean by all?

A. The manufacturers of the rails.

Q. But who are they? You see I do not know these things.

A. I just told you; the Cambria, Pennsylvania Steel Company and the Carnegie Steel Company.

Q. What is the weight of those rails?

A. They are principally 25's and 40's.

Q. What is your total tonnage in the purchase of that character of rails?

A. I suppose two or three thousand tons a year.

Q. Could you give me the percentage of your purchases in rails made of new steel that you have given to the Carnegie during the last four years?

A. No, I could not do that.

Q. Could you do it for any year?

A. Well, for 1912, probably all the new mine rails we bought from Carnegie because their price was lowest, but the percentage of purchase of new rails was comparatively small because we could buy the re-rollers still cheaper.

Q. And as a general rule those re-rolled rails you could buy cheaper than rails made of new steel?

A. Not always.

Q. But is that a general rule?

A. That is the general rule, yes. It depends a good deal upon the price of the scrap steel rail, you know, that is sold on the market.

Q. You mean the price of scrap steel?

A. Scrap steel rail.

Q. They cannot re-roll these rails, then, from anything except scrap steel rails? They do not re-roll it from any other form of scrap steel?

A. I do not think so; it is entirely from rails.

Q. You only purchase a few car wheels?

A. You mean steel car wheels?

Q. Yes.

A. Yes, we use what they call a bolted wheel on passenger cars.

Q. Have you noticed periods of uniformity in the price of these steel car wheels?

A. No, sir.

Q. From whom do you buy your wire nails?

A. We have a contract now with the Cambria Steel Company for a small quantity, and I think prior to that we bought the coated ones from Pierson & Company.

Q. What quantity of nails do you buy per year?

A. I do not know; we bought some coated nails. It is divided between the two. Of course the consumption is pretty large, but I could not state it exactly.

Q. Of coated nails?

A. Cement coated; they stick better when put into the wood.

Q. They are made of steel wire and coated?

A. Yes.

Q. Do you know from whom you were purchasing steel nails from 1901 to 1910?

A. No, sir.

Q. Do you know that you purchased largely from the American Steel & Wire Company during the period 1901 to 1910?

A. No, sir.

Q. You do not recall?

A. No, sir. For a year or two we have been getting our nails from Pierson, until the Cambria came in and quoted a lower price.

Q. Cambria, so far as you know, has been in the market just for the last few years?

A. Yes; not very long. If they were, I do not know of it.

Q. From whom do you get your seamless boiler tubes?

A. From the Delaware Steel Tube Works.

Q. Where is that located?

A. At Auburn, Pennsylvania.

Q. Do you buy all of your seamless tubes from that company?

A. We have until the last order; we are trying out some other makes to know whether they would answer as well. You understand, we use principally iron tubes.

Q. Then you are not much in the seamless tube market?

A. Not much, except for safe ends.

Q. You have superior officers that you consult at times in reference to your purchases, have you not?

A. No; I have authority to make purchases.

Q. Have you never conferred with any superior officers in respect to purchases?

A. I might, very occasionally, on a large purchase.

Q. Now, axles: from whom do you get your steel axles?

A. Principally, I should say, from Cambria Steel Company; some from the Midvale and some from the Bethlehem.

Q. How long has the Cambria been making axles, so far as you know?

A. I do not know. A dozen years, I should say, anyway.

Q. Do you find periods of uniformity in respect to axles?

A. No, not very much.

MR. COLTON: That is all.

(Whereupon an adjournment was taken until Monday, December 1, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-FIRST DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Monday, December 1, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. BOLLING.

JOSEPH B. ANDREWS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where is your home?

A. Newport, Kentucky.

Q. What is your business?

A. In the iron and steel business.

Q. With what iron or steel companies are you connected?

A. I am connected with the Andrews Steel Company and the Newport Rolling Mill Company.

Q. What is your relation to the Andrews Steel Company?

A. I am president.

Q. How long have you been president of that company?

A. Since 1910.

Q. Previous to that time were you connected with that company?

A. I was vice-president.

Q. For how long a period?

A. Since the company was incorporated; that is, about 1907.

Q. What is your relation to the Newport Rolling Mill Company?

A. I am vice-president.

Q. How long have you been vice-president?

A. I have been secretary or vice-president of the Newport Rolling Mill Company since about 1901, I think; some years I would be secretary and some years I would be vice-president.

Q. When you were secretary of the company were your relations to it much different from what they are when you are vice-president?

A. Practically the same.

Q. Were you during the time you were secretary, and, since you have been vice-president, have you been familiar with the buying and selling departments?

A. Yes.

MR. DICKINSON: You are speaking of the Newport Company?

MR. SEVERANCE: Yes.

By MR. SEVERANCE:

Q. Have you always been familiar with the buying and selling departments of the Andrews Steel Company during your incumbency of the vice-presidency or the presidency of that company?

A. Yes.

Q. Taking up first the Andrews Steel Company, which you say was incorporated in 1907, what does that company manufacture?

A. Sheet bars, billets, slabs, ingots and blooms.

Q. When did the company commence its operations? You say it was formed in 1907.

A. I am not sure whether it incorporated in the fall of 1906 or the spring of 1907. It commenced operations in 1908.

Q. That is, it was built as a new plant?

A. Yes; it was a new plant.

Q. What was the capacity of the Andrews Steel Company in tons at the time it was built?

A. The Andrews Steel Company was first started with three open hearth furnaces; the capacity was about 75,000 tons a year at the start; that was its normal capacity; what it could get out; but it did not get out that much at the start.

Q. Has that capacity been increased at any time since 1907?

A. Its capacity was increased in 1910 by the addition of one more open hearth furnace, and increased this summer by the addition of two furnaces, so that its capacity now is about 150,000 tons normally.

Mr. Dickinson: Is that ingots?

The Witness: That is the finished product of blooms, billets and sheet bars. Naturally there is a little larger capacity of ingots than there would be of the finished product.

By Mr. Severance:

Q. Can you give the percentage or the capacity in ingots?

A. Well, it would vary, depending on the crop that is taken of the ingots to produce the finished product. On some articles we are compelled to take a rather large crop; sometimes twenty-five or thirty, and sometimes even forty per cent. crop, but that is abnormal; the average crop I should say would be about fifteen per cent.

Q. So that your production of ingots would be about 15 per cent. more than the 150,000 tons?

A. Yes.

Mr. Dickinson: Would that same percentage run on back? I am just asking this so that it may shorten the cross examination. Suppose you ask him what the average would be in ingots.

By Mr. Severance:

Q. The average of 15 per cent. would apply the same when you had 150,000 tons as it would when you had 50,000 tons?

A. Naturally, yes.

Q. Where does the Andrews Steel Company market its product, and where has it marketed its product since it commenced business?

A. In Ohio, Kentucky and Illinois, principally. There are other markets that we reach. We send some to the Pacific coast, not a great deal; and also in Indiana.

Q. Did the Andrews Steel Company sell any portion of its billets or sheet bars to the Newport Rolling Mill?

A. It sells all of the requirements of the Newport Rolling Mill Company.

Q. And what are the requirements of the Newport Rolling Mill Company?

A. With the exception of the times when it cannot furnish it. During the flood in the Ohio Valley this last spring the Newport Company bought some sheet bars on the outside. The requirements of the Newport Rolling Mill Company are, running full, 50,000 tons a year.

Q. Of sheet bars?

A. Yes.

Q. They do not use billets?

A. They might buy five or ten tons of billets for forging purposes.

Q. But that is practically nothing?

A. Practically nothing.

Q. Then at the present time the annual requirements of the Newport Rolling Mill Company are about 50,000 tons in bars?

A. Yes.

Q. And the Andrews Steel Company has for sale on the outside about 100,000 tons if they are running full?

A. Yes.

Q. Have the requirements of the Newport Rolling Mill Company increased since 1907 or 1908, when the Steel Company went into business?

A. The capacity of the plant is greater because of increasing output on the same equipment that they used to have.

Q. The requirements are greater than they were then?

A. Yes.

Q. How much greater are they than they were five years ago, when the Andrews Steel Company commenced business?

A. Their capacity at that time was probably 35,000 tons; 30,000 to 35,000 tons in 1907.

Q. What was the capacity of the Newport Rolling Mill Company in 1901, when you became secretary of that company?

A. The capacity at that time was in the neighborhood of 25,000 tons.

Q. Returning now to the Andrews Steel Company—I merely asked about the Rolling Mill Company because I wanted to see how much of the bars and billets the steel company had to sell—in what form do you sell most of your steel product outside of what goes to the Newport Rolling Mill Company? In the form of billets, bars or blooms?

A. Billets and sheet bars.

Q. Which has the greater proportion?

A. It varies. At times there is a greater demand for sheet bars, and we can sell more of the sheet bars, and at other times we can sell more as billets. It is not regular.

Q. It depends on the state of the market and the demand?

A. Yes. Sometimes the billet market is such that there is more demand for the billets than for sheet bars, and sometimes there is more of a demand for the sheet bars; and we sell our product according to which one pays us the better.

Q. Can you state the names of any concerns that are competitors of yours in the sale of sheet bars or billets in the territory you have mentioned? I mean, competitors of the Andrews Steel Company.

A. Yes.

Q. Will you name them?

A. The Carnegie Steel Company——

MR. DICKINSON: Do you ask for both? Is he to give both or is he to separate them, or are they the same?

By MR. SEVERANCE:

Q. Do the same people make sheet bars and billets generally?

A. Generally, yes.

MR. DICKINSON: Then this answer applies to both?

THE WITNESS: Do you wish billets or sheet bars?

By Mr. Severance:

Q. Can you give them separately? Suppose you give first billets and then sheet bars; the competitors in the billet market and in the sheet bar market.

A. In billets, the Carnegie Steel Company, the Youngstown Sheet & Tube Company, the Republic Iron & Steel Company, the Carbon Steel Company, the Portsmouth Steel Company, the Inland Steel Company, at times the other branches of the Steel Corporation—that is, they sell billets from the Tennessee Coal, Iron & Railroad Company, and they also sell them from the Illinois Steel Company, the Cambria Steel Company—although we do not hear much of them in our territory; the Lackawanna Steel Company—they sell, but we do not hear much of them, because of their position, their location being such that the freights are against them.

Q. How about Brier Hill?

A. The Brier Hill Company has not as yet produced any billets, to my knowledge. They are just starting their new plant.

Q. Were there some other companies that were taken over by the Brier Hill Company?

A. There were two sheet mills taken over by the Brier Hill Steel Company.

Q. But no billet mills?

A. They are erecting their own steel plant; building it.

Q. Do Jones & Laughlin sell billets?

A. I forgot Jones & Laughlin. They do; although we do not hear much from them.

Q. Do the La Belle Iron Works ever sell billets?

A. Yes; the La Belle Iron Works do. I forgot them. They compete on some of our trade.

Q. As to that market in billets in which you sell and in which these competitors of yours sell: I want to ask you whether, during the period since the Andrews Steel Company went into the business, 1908, that has been an open, free, competitive market in billets.

A. Yes.

Q. Have there been any agreements between your com-

pany and any of these other companies as to the price they should charge for billets, or have you sold at your own price?

A. We sell at our own price. Sometimes it is at our customer's price.

Q. You sell at the best price you can get?

A. Yes.

Q. You are not governed by any agreements of your competitors; is that true?

A. Yes.

Q. Has the Andrews Steel Company any blast furnaces?

A. No. We buy our pig iron.

Q. Where do you buy your pig iron?

A. Do you want the names of the concerns?

Q. First, from what districts do you get it?

A. We buy from the Birmingham district, Ironton, sometimes the Valley, that is, the district around Youngstown, Ohio, the Valley district; Columbus, Ohio; Cleveland; we have bought at Hamilton, Ohio, when that little furnace was in operation; there was a little furnace in operation there for a while, but not now.

Q. During this period that you have been buying pig iron, what percentage of that pig iron have you bought from the Birmingham district?

A. We have probably bought 40 per cent. from the Birmingham district.

Q. How much of it, if any, have you bought from the Tennessee Coal, Iron & Railroad Company?

A. We bought probably 40 to 45 per cent. from the Birmingham district; probably 30 to 40 per cent. of that from the Tennessee Coal, Iron & Railroad Company. There are two other producers of basic pig iron in the Birmingham district, one of them the Woodward Iron & Steel Company. They do not regularly make basic. They have put in their facilities to make basic, but they generally confine their sales to foundry iron. I think it probably pays them a little better. The Southern Iron & Steel Company has intermittently been a seller of basic iron during the last four or five years. They have had reorganizations, and consequently have not operated in full, and they use a good bit of their own pig iron.

Q. What railroad are you located on?

A. On the Louisville & Nashville Railroad.

Q. Then you are on the same line as Birmingham?

A. Yes.

Q. And Birmingham pig goes up into your country more or less for foundry purposes, does it not?

A. Birmingham pig iron is used quite a good deal in the Cincinnati market, and even further north, because it makes a better mixture in connection with the northern pig iron. They do not like to use one without the other. I think it makes a better mixture.

Q. That is, you prefer that, do you, for your use?

A. I was talking about the foundries. They buy northern and southern, and make their mixture, you see. Naturally, up in the Chicago district and Cleveland, they can generally get northern pig iron cheaper than they can southern, but the southern pig iron has properties that are necessary to their mixture to get the best results.

Q. That is for foundry work?

A. Yes; for foundry work.

Q. This market for pig iron in which you have purchased, or as to which you have given the various districts from which you have secured your pig iron; will you tell us whether that market has been an open, free, competitive market during the time you have purchased pig iron?

MR. DICKINSON: This is objected to because it calls for the opinion of the witness and his conclusion as to whether a market has been open and competitive, without showing the facts upon which he bases that statement, or his knowledge of what constitutes an open and competitive market.

By MR. SEVERANCE:

Q. You may answer the question. That objection is for the record.

A. We have always found a difference in prices and a competitive market.

Q. That is, the different sellers have at the same time quoted you varying prices?

A. Varying prices. Sometimes there would be one or two that would probably quote the same price.

Q. Has that been usual or unusual?

A. We would send out inquiries to probably eight or ten people, and out of the eight or ten people there probably were one or two where the prices would happen to be the same.

Q. Aside from that, they would be varying?

A. Yes.

Q. That has been your experience during the five years you have been in the market for pig iron?

A. Yes.

Q. Well, that looks competitive. Now, coming to the product of the Newport Rolling Mill: what is the principal product they make—sheets?

A. They make black and galvanized sheets, and they form roofing products from the same.

Q. And where is the market for the product of the Newport Rolling Mill Company?

A. It is in the immediate vicinity of Cincinnati, south, southwest and west.

Q. Has that territory been about the same during all the time that you have been in the business?

A. The majority of our product has been marketed in that territory all the time.

Q. Can you state what competitors you have had, or name as many as you can conveniently, in the sale of sheets during the last ten or twelve years?

A. The American Sheet & Tin Plate Company; Youngstown Sheet & Tube Company; Youngstown Iron & Steel Company; Stark Rolling Mill Company; Canton Sheet Steel Company; Carnahan Sheet & Tin Plate Company; Jobe Iron & Steel Company; Fannin & McCullough.

Q. Where are they located?

A. They are now operating the plant of the Jobe Iron & Steel Company; the plant which was formerly operated by the Jobe Iron & Steel Company. The Inland Steel Company; National Enameling and Stamping Company.

Mr. Dickinson: The National Enameling & Stamping Company?

THE WITNESS: Yes. The Parkersburg Iron & Steel Company; DeForest Sheet & Tin Plate Company; two sheet mills that have been taken over by the Brier Hill Steel Company.

By MR. SEVERANCE:

Q. Is there a Wheeling Company?

A. Portsmouth Steel Company; Wheeling Corrugating Company; the American Rolling Mill Company; Phillips Sheet & Tin Plate Company. There are some few others, but I cannot recall them now.

Q. Well, those are the ones that come to your mind?

A. Those are the ones that sell the most.

MR. DICKINSON: I understand you to say all of those have been competitors for ten or twelve years?

MR. SEVERANCE: During the last ten or twelve years.

MR. DICKINSON: You asked him about those who have been competitors during the last ten or twelve years.

MR. SEVERANCE: Yes.

MR. DICKINSON: "During" would mean throughout.

THE WITNESS: Portsmouth has not been making sheets throughout the entire time; Fannin & McCullough have not been making sheets throughout the entire time, and the Jobe Iron & Steel Company has not been making sheets throughout that entire time, and the Canton Sheet Steel Company has not.

By MR. SEVERANCE:

Q. Well, suppose I ask you this list, and you can tell me how long they have been in the business. American Sheet & Tin Plate have been during the whole time?

A. Yes, sir.

Q. Youngstown Sheet & Tube?

A. I think they started in 1901; about 1901.

Q. The Youngstown Iron & Steel?

A. I think they started about the same time; maybe two or three years later.

Q. Stark Rolling Mill?

A. They have been in existence that long.

Q. The Canton Sheet Steel Company?

A. They started, I think, two or three years ago.

Q. And Carnahan?

A. Carnahan, I think, have been in business ten years; about ten or twelve years.

Q. The Jobe Iron & Steel?

A. The Jobe Iron & Steel Company was started in 1908, and, I think, ran until 1911.

Q. Then it was taken over by Fannin & McCullough?

A. Fannin & McCullough started the sheet mill about a year ago.

Q. The Inland Steel?

A. The Inland Steel has been making sheets that long.

Q. The National Enameling & Stamping Company?

A. The National Enameling and Stamping Company have been making black plate or sheets that long.

Q. Parkersburg?

A. Parkersburg, I think, have been making sheets about twelve years.

Q. DeForest Sheet & Tin Plate?

A. DeForest—the mill has been running about that long. I do not know whether it has been always operated under the name of DeForest or not.

Q. It has been in the market, or its products have been in the market?

A. Yes.

Q. Those two sheet mills, you say, were taken over by the Brier Hill?

A. I am not certain about DeForest. There are three or four concerns in Niles, and they have changed names back and forth, and I could not say for certain whether they have been marketing sheets that long. There was W. A. Thomas, under the name of the Thomas Steel Company, and I think he had it under another name first.

Q. Now, you spoke of two concerns that have been taken over by the Brier Hill.

A. That was the Thomas Steel Company and, I think, the Empire Steel & Iron Company.

Q. How long have they been in business?

A. About the same length of time.

Q. Ten or twelve years?

A. Yes, I think so.

Q. And the Portsmouth Steel?

A. The Portsmouth Steel Company is an old concern; the plant is an old plant. They have later reorganized it, I think; about four or five years ago; enlarged it and gone into the manufacture of sheets. They used to make billets, heavy sheets, prior to that time.

Q. The Wheeling Corrugating Company?

A. The Wheeling has been in existence a long time; fifteen or twenty years; maybe longer.

Q. The American Rolling Mill Company?

A. The American Rolling Mill Company was organized about 1899, I think.

Q. 1899?

A. Yes, about that.

Q. Previous to 1901, then?

A. Yes.

Q. The Phillips Sheet & Tin Plate Company?

A. I don't know exactly how long they have been in existence. They have been in existence a number of years, though.

Q. I do not understand, Mr. Andrews, that you say that is a complete list, but those are all that come to your mind at the present time?

A. There are a few other concerns that occasionally sell. They are mostly tin mills, and they sell their black plate, and compete with the sheet mills. Ordinarily I think they tin up most of their material. We do not hear from them much. McKeesport and Pope, and people like that, I think.

Q. Now, will you state whether or not, during the period since you have become secretary of the Newport Rolling Mill Company, in 1901, that company has operated independently, or has it operated under agreements with its competitors as to prices?

A. Independently.

Q. At all times?

A. At all times.

Q. Is there or is there not a certain territory in which the mills located as yours are located have a certain advantage over mills in other localities, due to freight rates?

A. There are localities where we have advantages, and there are others where we have disadvantages.

Q. What is the territory in which you have a trade advantage by reason of feight?

A. In the Cincinnati market and the immediate vicinity thereof, to the south, and, over some of the mills, to the southwest, not to the extreme west, however.

Q. Previous to the time the Andrews Steel Company was formed, where did the Newport Rolling Mill Company secure its supply of sheet bars?

A. It bought them in the open market to the best advantage possible.

Q. From whom did you make the larger share of your purchases?

A. We used to buy our sheet bars from the Ohio Steel Company of Youngstown, and from King, Gilbert, Warner Company, Columbus, Ohio. They were afterwards absorbed by the National Steel Company, and we bought our steel from the National Steel Company. After the National Steel Company was taken over by the Carnegie, we bought our bars from the Carnegie Steel Company.

Q. What percentage of your requirements have you bought from those Ohio mills?

MR. DICKINSON: I did not understand him to say that he has always bought it.

MR. SEVERANCE: Well, what have you ordinarily bought?

MR. DICKINSON: He says he bought from the Carnegie a good deal.

MR. SEVERANCE: He said when the operation of those mills was taken over by the Carnegie he bought from Carnegie.

MR. DICKINSON: You are asking him now as to before they were taken over?

By MR. SEVERANCE:

Q. Perhaps I did not understand you correctly. I understood you to say you bought from King, Gilbert & Warner and the Ohio. Those were taken over by the National?

A. Yes.

Q. And then you continued to buy from the National Steel Company?

A. We bought from the National, and they would ship their sheet bars from whichever plant they wanted to.

Q. Then after the operation of the National was taken over by the Carnegie, you bought from the Carnegie?

A. At the same time we secured part of our sheet bars by buying billets and breaking them down on a small mill of ours into sheet bars. Those were generally bought from the Ashland Steel Company, and once or twice I believe we bought from a little company in Kentucky that operated an open hearth plant and made billets; I forget the name of the concern. I think it was at Middlesboro, Kentucky.

Q. Did you buy any bars from the Republic Iron & Steel Company?

A. Yes, we bought bars from the Republic Iron & Steel Company.

Q. Did you buy any from Jones & Laughlin?

A. Not to my recollection, no.

Q. Were they in the market selling bars at that time?

A. I do not know whether we took it up with them or not, regarding prices; I do not recollect that we did. I think we did, but I think their prices were generally higher. I don't recollect buying any sheet bars from them.

Q. How about the Youngstown Sheet & Tube Company; were they in the market?

A. They were at times sellers of sheet bars, but their prices were never such that we could favor them with any orders.

Q. How did their prices compare with Carnegie's?

A. They were generally higher. The Republic's prices were generally higher too, practically.

Q. Does the American Rolling Mill Company sell bars?

A. Yes, at times they offered sheet bars and we bought some from them, I think.

Q. What is the difference between cut bars and other bars?

A. The difference between cut sheet bars and long bars is that the long sheet bars are rolled and then cut into lengths of about 30 feet. Cut sheet bars are sheet bars cut as specified, generally in lengths of 25, 27, 29, 30, 36 or 37 inches, somewhere up to three or four feet, in various inches that would be specified.

Q. Were these Ohio mills that you originally bought from, or the Carnegie mills, whichever ones they supplied you from, equipped to furnish cut bars?

A. They could furnish either cut or long bars. All our purchases from them were cut bars, as we preferred them. In our purchases from the Republic Iron & Steel Company we had to take long bars, because they were not equipped to make cut bars. The American Rolling Mill Company made cut bars.

Q. What other makers of sheet bars have been in the market in the territory in which the Andrews Steel Company sold its product, since the establishment of the company?

A. The Lackawanna Steel Company, the Cambria, the Carnegie Steel Company——

Q. You have mentioned them already, but go on and give the whole list.

A. The Youngstown Sheet & Tube Company and the Republic Iron & Steel Company. The American Rolling Mill Company has sold some sheet bars, however.

Q. What about the La Belle Iron Works? Do they sell sheet bars?

A. They have sold sheet bars, yes; they have gone to one of our customers to sell sheet bars; they have marketed sheet bars to one of our customers.

Q. Does the Inland Company sell sheet bars?

A. I have never heard of them selling sheet bars. They can if they want to, but I think they generally finish their product in their own finishing mills.

Q. How has the market in sheet bars been since the An-

drews Steel Company went into business, as to being controlled by price agreements among yourself and your competitors, or otherwise?

MR. DICKINSON: I object to so much of that question as refers to anything except any agreements that this witness may have gone into.

MR. SEVERANCE: That is what I am asking about.

THE WITNESS: We have sold our sheet bars at the best price we could get for them.

By MR. SEVERANCE:

Q. You have acted independently?

A. We have acted independently.

Q. Without any agreements or understandings?

A. Without any agreements or understandings.

MR. DICKINSON: You are referring to the Andrews Steel Company?

MR. SEVERANCE: The Andrews Steel Company; they are the only ones that make sheet bars.

MR. DICKINSON: I know, but he has already testified to that.

THE WITNESS: I think I testified as to the billet end.

MR. SEVERANCE: He testified to billets, but Mr. Halstead calls my attention to the fact that I omitted to ask him about sheet bars.

By MR. SEVERANCE:

Q. Mr. Andrews, did you attend any of the meetings that were held subsequent to the Gary dinners, so-called—any meetings of persons engaged in the various lines of manufacture that you have testified to that you were in?

A. I don't know whether those meetings were held subsequent to the Gary dinners or not, because I do not know when the Gary dinners were held. I have attended meetings held by the sheet people.

Q. When was that?

A. I could not give the exact date. I think it was in 1908; in the fall of 1908.

Q. How many of those meetings did you attend?

A. I would not want to exactly state that; I attended a

number of the meetings where sheet people have been present. Sometimes they have had meetings for the discussion of wage scales and things like that. They generally had two or three meetings. The majority—not the majority, but at one time the majority of the mills—were union mills, and the Amalgamated Association, the Union, used to present their demands to the sheet manufacturers, and they would have a meeting to discuss them pro and con. They would probably have sometimes two to three meetings. I think that I have attended, however, of the sheet manufacturers, about three or four meetings—the meetings that you have reference to.

Q. Do you remember any meetings that were called by Mr. Campbell of the Youngstown Sheet & Tube Company?

A. Yes, sir.

Q. Did you attend any of those meetings?

A. Yes, sir.

Q. What was done at those meetings?

A. The meetings that I attended were, I think, in the fall of 1908. Mr. Campbell, I know, called one or two of them. The majority of the manufacturers—I won't say the majority, but some of the manufacturers of sheet and tin plate attended those meetings and they discussed trade conditions, prices and so forth.

Q. During those meetings, or in connection with those meetings that you attended, were there any agreements or understandings reached between the parties as to the prices they would charge at any time for their products that they had to sell?

A. No.

Q. Did you make any agreement or promise as to the price at which you would sell your products?

A. No.

Q. Did you hear any of the other parties entering into any understandings or agreements as to the prices at which they should sell their products?

A. I did not.

Q. You did not hear anything of that kind?

A. No.

MR. SEVERANCE: That is all.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You say, as I understand you, that you attended three or four meetings?

A. Yes.

Q. You cannot give the dates?

A. I cannot.

Q. Were all of these three or four meetings called by Mr. Campbell? Can you state that positively, or do you know?

A. I know that Mr. Campbell called one or two of the meetings. I have no recollection of anyone else calling any of those meetings.

Q. So that, so far as you know, there are only one or two that you recollect that Mr. Campbell called, that you attended?

A. I attended some three or four meetings. I know, definitely, that Mr. Campbell called at least two or three of them.

Q. That is what I say. That is all you recollect?

A. Yes.

Q. And you do not know when they took place?

A. The ones I attended were during 1908; the fall of 1908.

Q. But you cannot give the months nor the dates?

A. No, sir; I could not give the exact months. I think it was during the winter months of 1908. It may have been in the spring of 1909. It may have been in January, 1909, one or two of them.

Q. You cannot locate the particular months you attended any particular meetings, then?

A. No, I cannot.

Q. What did the Newport Rolling Mill Company buy in the market outside of what it bought from the Andrews Steel Company?

A. Since 1908?

Q. No; take the whole period of twelve years; what did it buy on the market for manufacturing purposes?

A. It bought pig iron, sheet bars, billets, sal ammoniac——

Q. I meant steel products.

A. Oh. Pig iron, billets, sheet bars, and it would buy a few bands.

Q. The principal purchase, then, was sheet bars?

A. Sheet bars was the largest commodity purchased.

Q. Take twelve years ago—that would be 1901—and what was the tonnage that that company bought in sheet bars?

A. I could not give the exact tonnage at that time that they bought. If they were running full at that time they would consume about 25,000 tons of sheet bars.

Q. From whom did they buy that?

A. Their main source of supply was the Carnegie Steel Company or the National Steel Company.

Q. What percentage did you buy in 1901 from the subsidiaries of the United States Steel Corporation?

A. I could not tell the exact percentage for any one year without looking it up; but to my knowledge I would say it would be about 90 per cent. Maybe during that one year we may have bought all of our sheet bars from the Carnegie Steel Company.

Q. Take from 1901 down to the time you began to buy from the Andrews Steel Company: Did you continue buying about the same percentage from the Carnegie Steel Company?

A. Yes.

Q. What kind of a contract did you have with the Carnegie Company? Was it for a long period or for a short period, or did it run for several years?

A. We would have a contract sometimes for one year and sometimes, I think, for two years or three years.

Q. Take from 1901 down to 1908: That was when you began to buy from the Andrews Steel Company; how many contracts during that time did you have with the Carnegie Company?

A. I could not tell you.

Q. But you had contracts with them during that time running sometimes for a year and sometimes for as much as three years?

A. Practically continuously. As soon as one contract would run out, we would renew it or make another contract.

Near the completion of our steel plant we allowed our contract to run out. Our steel plant was delayed in completion and we went back to the Carnegie Steel Company and made a purchase, I think, of a fixed tonnage of sheet bars to tide us over.

Q. Then as soon as one contract with them would run out you——

A. We would generally renew it, or make a new one.

Q. You would make a new one with the Carnegie Company?

A. Maybe there would be some objections to some clauses of the old contract, or something of that kind, or we would try to get better terms, or something.

Q. Did not those contracts, or some of them, call for you to take a minimum amount?

A. A minimum amount and a maximum amount.

Q. And how near did that minimum amount reach your contemplated requirements?

A. I would say that we would generally take nearer the maximum amount on those tonnages than the minimum.

Q. That was about 90 per cent., during that period?

A. Yes; about 90 per cent.

Q. After you began to buy from the Andrews Steel Company, I believe you said, you got about 50 per cent. from them?

MR. SEVERANCE: No; all.

THE WITNESS: All of our——

By MR. DICKINSON:

Q. I will get it right. I have a memorandum of it here. You said you got about 40 to 45 per cent.——

A. No; that is the amount of pig iron we purchased in the Birmingham district.

Q. That is pig iron, yes. Well, I will not go back to that. Tell me, then, after you began to buy from the Andrews Steel Company what proportion of your requirements you got on the outside in sheet bars?

A. After the Andrews Steel Company started to make sheet bars we purchased no sheet bars on the outside, with

the exception of a small tonnage that we purchased last spring, because the mills of the Andrews Steel Company were shut down and not able to operate owing to the effects of the flood.

Q. So with that exception, then, you got, from 1901 to 1908, about 90 per cent. of your requirements from the Carnegie, and after that practically all your requirements, with this one exception, from the Andrews Steel Company?

A. Yes.

MR. SEVERANCE: One thing I did not ask him. Would you mind if I interpolate it here?

MR. DICKINSON: No; that is all right.

By MR. SEVERANCE:

Q. Are the Andrews Steel Company and Newport Rolling Mill Company controlled by the same stockholders?

A. The largest stockholders in the Newport Rolling Mill Company are also the largest stockholders in the Andrews Steel Company.

By MR. DICKINSON:

Q. Now, who are the largest stockholders in those two companies?

A. Mr. A. L. Andrews, and his wife; I think she is a stockholder in the Newport Rolling Mill Company; Joseph G. Andrews; A. K. Andrews; my brother, W. N. Andrews, and myself.

Q. Are there any large stockholders outside of your family?

A. In the Newport Rolling Mill Company, no.

Q. Well, how in the other?

A. My uncle has two daughters who are stockholders in the Andrews Steel Company.

Q. Well, outside of your family connections?

A. No.

Q. It is pretty much a family affair, then?

A. Yes.

MR. SEVERANCE: Your family control both companies, then, do they?

THE WITNESS: Yes; but some of the stockholders in the

Andrews Steel Company are not stockholders in the Newport Rolling Mill Company.

Mr. Severance: But all the stockholders in the Newport Rolling Mill Company are stockholders in the Andrews Steel Company?

The Witness: Yes.

Mr. Severance: And control it?

The Witness: Yes.

By Mr. Dickinson:

Q. Now, what was the output in tonnage of the Newport Rolling Mill Company for the year 1901 of finished product?

A. We have a record of what we produce each year, but I could not say offhand. I would say our capacity at that time was about 25,000 tons.

Q. What was your output? You have given us your capacity.

A. I could not tell you what our output each year was, because at times we would run fuller than at other times.

Q. But what you have given is the theoretical capacity, is it not?

A. Well, our output was about—we could produce at that time 25,000 tons, and probably did produce 25,000 tons.

Q. Now, take the year 1902?

A. In 1901 we had—I will not say 1901, but about that time, there was a limit on output on sheet mills, put on by the Amalgamated Association of Iron and Sheet and Tin Plate Workers—the Union. Shortly after that they took the limit off, and the mills commenced to increase their output; they got better furnaces, better equipment, larger and stronger mills, and since then the output has practically steadily increased each year.

Q. Just give us as nearly as you can—you have given it for 1901; now, give it for 1902, and on down to the present time.

A. That would be more or less of a guess.

Q. Yes, but you can give us your best estimate.

A. I would say it steadily increased, so that from an out-

put of 25,000 tons on ten sheet mills, it has grown to 50,000 tons on ten sheet mills.

Q. What product are you speaking of there?

A. Sheet mill products; sheets.

Q. Was that your capacity in 1912?

A. Our capacity to-day is about 50,000 tons.

Q. Take the Andrews Steel Company; you say they began manufacturing in 1908?

A. 1908.

Q. What was the output there in tons in steel bars, billets, slabs, ingots and blooms in that year, 1908?

A. In that year I could not tell you, offhand.

Q. Well, what is the nearest estimate you can make?

A. Approximately, I should say, we operated probably—commenced operations about April 8th, with one furnace, and I should say we produced about 50,000 tons that year.

Q. Now, in 1909?

A. In 1909 our tonnage increased.

Q. To about what?

A. I could not tell you offhand. I can say, approximately, 65,000 or 70,000 tons.

Q. Now, give us 1910, 1911 and 1912.

A. In some years it went back a little; one or two years, in times of depression, and it was not always a steady increase, but the capacity and the output of the plant has increased since the start. As you can see, we started with three furnaces, with a nominal capacity of about 75,000 tons.

Q. What has been the maximum output in any year—the highest year?

A. I should say about 90,000 tons has been our maximum output in any one year.

Q. What year was that?

A. 1911 or 1912. We completed this year two additional furnaces, increasing our output a little over 50 per cent.

MR. SEVERANCE: I think that is all, Mr. Andrews.

MR. DICKINSON: That is all.

ALBERT GRANT BELMER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live, Mr. Belmer?

A. Cincinnati.

Q. What is your business?

A. More especially jobbing of wire and wire products.

Q. Have you a corporation?

A. Yes, sir.

Q. What is its name?

A. The H. Belmer Company.

Q. What relation do you sustain to it?

A. Vice-president.

Q. How long have you been vice-president of that corporation?

A. I think the concern was incorporated about four or five years ago.

Q. Was it in existence before that in some other form?

A. Yes, sir.

Q. What?

A. As a firm.

Q. For how long a time?

A. There was an H. Belmer & Company established immediately after the war; a couple of years.

Q. The War of the Revolution?

A. No.

Q. Or the Civil War?

A. The Civil War. I did not mean the Spanish War.

Q. You meant the Civil War?

A. Yes.

Q. Your memory does not go back to that time?

A. Not quite.

Q. How old are you?

A. Forty-five.

Q. Were you a member of the old firm—of the firm before the corporation was formed?

A. No, sir.

Q. Were you connected in any way with the business before that?

A. Yes.

Q. As what?

A. I was sort of a general manager and all-round worker.

Q. For how many years had you had the general management, whether you had the title or not?

A. Along about 1890 or 1891; somewhere in there.

Q. From that time on, down until the corporation was formed?

A. Yes.

Q. Have you a general manager now?

A. Yes.

Q. I mean, by name?

A. We have no general manager by name. It is a family affair, the corporation, and I am the son of Mr. H. Belmer, who is the president.

Q. And does the management of the company fall to your lot?

A. Very greatly.

Q. You are younger than your father?

A. A little bit.

Q. What does your company do?

A. We manufacture some wire goods, but our main business is the jobbing of wire and wire products.

Q. Do you handle wire nails?

A. Yes, sir.

Q. Fencing?

A. Yes, sir.

Q. Barb wire?

A. Yes, sir.

Q. And some other wire?

A. Yes, sir.

Q. I understood that the jobbing end of your business is the larger part?

A. Yes, sir.

Q. How much wire do you use a year, in tonnage?

A. Between 5,000 and 6,000 tons.

Q. Do you buy any from the American Steel & Wire Company?

A. Some.

Q. Do you or not buy on a competitive basis?

A. Yes.

Q. What percentage of your purchases is made from the Steel & Wire Company?

A. Well, I cannot give it definitely on most of the years, but my recollection is that the other percentages outside of the year 1912 were less than they were in 1912, and in that year they ran a little less than 12 per cent.

Q. You know just what they did run in that year?

A. I know what they ran in that year, yes.

Q. And your recollection is that it was rather less than more?

A. Yes.

Q. For how many years back can you remember, ten years?

A. No, I should judge about five or six years.

Q. That is, your recollection, you mean, goes back that far?

A. Yes. I will not say my recollection, but for those years I know about what our tonnage was. Previously to that our total tonnage was a little lighter, because we have been growing in the meantime to some extent.

Q. As general manager did you have anything to do with purchases?

A. I bought nearly everything.

Q. How long have you bought nearly everything? Never mind about the formation of the corporation, but covering the period of your partnership as well.

A. Well, our company was in a little peculiar position. Up to the time that the American Steel & Wire Company was formed our company was really a part of the Cincinnati Barbed Wire Fence Company, and we drew our supplies from them. After they sold out then we went onto the general market and bought.

Q. You observe I am talking about the period wholly since

that time, wholly since the American Steel & Wire Company was formed; that is, the last ten years?

A. Yes.

Q. I think you have already answered that during the last five or six years your purchases ran about 11 to 12 per cent.?

A. Yes.

Q. Can you give us any idea what they were during four or five years before that?

A. I judge they were less, except possibly the first month or two when we were just getting our bearings after the change, after the Barbed Wire Company sold out and Belmer & Company got into the harness. I don't recollect where we bought stuff then.

Q. Have you bought from time to time for immediate use or on contracts with time delivery?

A. Sometimes we have bought as we needed it, from month to month, without any special contract. At other times, when we thought the market had got about right from the buyers' standpoint, that the price had got down about as low as it was going to be, then we would try to make contracts.

Q. What proportion of your requirements has been purchased on time contracts?

A. Oh, I would judge about 75 per cent.

Q. Is that true of the whole period of ten years?

A. Yes.

Q. Was there any change in the method of doing business?

A. Well, excuse me. I want to change that. I believe it was more than that; probably 80 to 85 per cent., because we always aimed to have some little stuff under contract.

Q. Was there any particular change in the method of buying when the Corporation was formed from that which obtained when it was a partnership? Has the business gone on about as it was before in those respects?

A. Well, when the American Steel & Wire Company——

Q. No, your concern; when was your concern formed into a corporation?

A. I don't remember, but it is about four or five years ago, five or six years.

Q. That is what I am talking about, whether there was any change in your method of buying after your corporation was formed, from that which obtained when it was a partnership?

A. No, sir.

Q. Do you receive quotations when you are ready to make purchases or contracts, ordinarily?

A. Yes.

Q. From how many different concerns? I am not asking for the names just now, but the number?

A. Probably six or seven, somewhere in there.

Q. Can you give me the names of them, or some of them, the leading ones?

A. Yes.

Q. Will you do so, please.

A. The American Steel & Wire Company, the Youngstown Sheet & Tube Company, the Pittsburgh Steel Company, the Kelly Nail & Iron Company, the Belfont Iron Works, Norton Iron Works, and probably a few more smaller concerns.

Q. That will do. Were you visited by the salesmen of those concerns from time to time?

A. Yes.

Q. Did you get quotations from them also?

A. Yes.

Q. Did the quotations that you received from the salesmen and the quotations that you received by request ordinarily agree? That is, were they ordinarily uniform, or ordinarily variant?

A. Ordinarily variant.

Q. Both those that you got in response to invitation and those that you got from the different salesmen?

A. Yes.

Q. Were there ever two of them alike?

A. Well, it is pretty hard to tell in all these years; there might have been a price or two that would be about the same.

Q. Assuming that there were times when two or more agreed, did they agree often or was it infrequent?

A. Very infrequently, rather.

Q. Has there been active competition in the sale of these

wire products by the different manufacturers with whom you have dealt, or whose bids you have solicited during the last ten years?

A. Yes.

Q. Is that true of the whole period?

A. Yes.

Q. And is it true of each of the articles that you deal in?

A. Yes.

Q. And in addition to inviting bids from the manufacturers and receiving offers from their salesmen, was it or was it not your practice to negotiate for a better price?

A. Yes.

Q. And with what success?

A. Usually I would get a better price.

Q. Do you always negotiate with one, or always with all, and, if not, on what principle do you make that selection?

A. After I had my prices in of course the fellows that were the highest I didn't pay much attention to. I would get down to the fellows that were pretty near the bottom, and I would go to them or have them come to me or write to them and say "Can't you do a little better?" and the man that I would get down the lowest, he would usually get the business.

Q. Now I take it from your statement that that was the American Steel & Wire Company in only about 11 or 12 per cent. of the cases?

A. It resulted in their getting about that percentage of the business.

Q. Of course it would depend upon quantity some?

A. Yes.

Q. Was there anyone who got the largest amount of your business, or was it pretty evenly distributed among the others?

A. Yes, there were one or two or three that the bulk of the business would be divided among.

Q. Who got the largest amount of your business?

A. I judge that the largest amount went to the Belfont Iron Works and the Kelly Nail & Iron Company, and one or two years I think the Pittsburgh Steel Company got a big slice of it, and another year I think the Youngstown Sheet & Tube Company; I am referring more especially to our spring

contracts, because that is where we make our heaviest contracts.

Q. Would you find the concern that was highest at one time generally highest at another time, or would they differ in that respect, one being high at one time and another at another time?

A. No, there was a good deal of variation. I have always made it a point in buying to distribute my business in such bulk, and have it so generally known that the best price took the business that every once in a while somebody would say "I am going to get that," or I judge that is what he said to himself, and first one would make a cut and then the next time the other fellow would possibly make a cut.

Q. So that there was rather a wide distribution in that way of your business, was there?

A. Yes.

Q. Have you at any time within the last ten years observed any indication of a combination between the wire manufacturers, either to fix or maintain prices?

MR. COLTON: I object, on the ground that it calls for a conclusion of the witness upon a state of facts which may or may not be in the mind of the witness, not disclosed to the court.

THE WITNESS: I do not know—I could not tell whether there was any agreement as to prices, but as far as the results in our business were concerned, we always succeeded in getting better prices than were made the first time; that is, we would get quotations, and then, when we would come to a show-down, the chances are we would usually get lower figures afterwards, as a result of dickering, or something like that.

By MR. LINDABURY:

Q. Did your dickering or your contact with the business, the getting of quotations, the offering of goods, anything connected with your particular trade at any time during the ten years, indicate to you that the manufacturers were in a combination of any kind?

MR. COLTON: I object, on the ground that it calls for a conclusion of the witness on a state of facts not disclosed to the court.

THE WITNESS: No, sir; I do not think so.

MR. LINDABURY: That is all.

CROSS EXAMINATION

By MR. COLTON:

Q. With whom have you contracts for this year, for wire products?

A. We have had some contracts with the Belfont Iron Works, the Kelly Nail & Iron Company, the Norton Iron Works—you mean all through this year?

Q. Yes; for the year 1913.

A. The American Steel & Wire Company, and some little stuff from the Indiana Steel & Wire Company—I do not know that that is essential, because they make a product that none of these other fellows make. It is a nail that none of the rest of them make that we buy from them.

Q. Those are the only contracts you have for the year 1913 for wire products?

A. I do not think of any others.

Q. What different articles are covered by your contract with the American Steel & Wire Company?

A. Smooth wire, barbed wire, nails, some fencing—I guess that is about all.

Q. What is the total tonnage that you have placed with the American Steel & Wire Company during the year 1913?

A. 500 tons, I think it was.

Q. When was that contract made with the American Steel & Wire Company?

A. I think that was made a month or two ago.

Q. Could you give the date more accurately than that.

A. No; I don't believe I can.

Q. Did the contract have a base price?

A. Yes, sir.

Q. What was the base price?

A. I don't know that I could tell you what the contract read. I know what we were to pay at Cincinnati for the stuff.

Q. It included freight?

A. Yes.

Q. And the quotations that you have familiarized yourself with include freight, usually?

A. Yes, sir.

Q. You are not familiar with the difference in the different markets that there would be if you took a quotation as Pittsburgh, as distinguished from quoting the products delivered?

A. I do not know about the other markets. I know about the Cincinnati market.

Q. You are only familiar with the delivered prices? Is that right?

A. In a general way I know what it nets back to Pittsburgh; that is, what it nets the mills at Pittsburgh. That is, in case it was a Pittsburgh price.

Q. Do you know what the manufacturers at Pittsburgh actually paid to the railroads during the last ten years in respect to any tonnage of wire under contracts that you had?

A. I know our price here would be $1.70 on nails at Cincinnati. I know the freight is fifteen cents, or the tariff rate is fifteen cents; I would judge, then, it would net $1.55 at Pittsburgh.

Q. You did not pay the freight?

A. No.

Q. You do not know what was paid, do you?

A. If we did pay the freight, we would simply take it off the bills.

Q. Did not the sellers frequently pay the freight?

A. I believe the American Steel & Wire Company nearly always prepays its freight. Some other concerns do not. That is my recollection.

Q. It varies, but the American Steel & Wire Company is one of the concerns that more usually pays the freight; is that right?

A. That is my recollection, yes.

Q. Is it not a fact that the American Steel & Wire Company practically always pays the freight?

A. I guess that is right.

Q. Do you know of any instance in which they did not pay the freight?

A. On direct shipments I do not believe they do. That is, I mean direct shipments to other points on our orders, outside of Cincinnati.

Q. What was the price that you paid at Cincinnati to the American Steel & Wire Company on the contract for 500 tons that you have testified about?

A. $1.70 Cincinnati.

Q. That contract was made about a month ago?

A. Within a month or two months ago. I did not think it would be necessary to look for anything like that, so I did not look it up.

Q. That is the base price on what?

A. Nails.

Q. The base price on nails?

A. Yes.

Q. Are all the other products figured by a system of extras from nails?

A. Yes; that is, with the exception of fence. Fence is usually sold on a discount basis.

Q. You had some fencing included in this contract, did you not?

A. No, sir.

Q. The contract included smooth wire?

A. Yes.

Q. And barbed wire?

A. Yes.

Q. And wire nails?

A. Yes.

Q. And anything else?

A. Well, some staples. I guess that was about all.

Q. I understand you to say that, by a system of extras, you figure everything from the base price of nails?

A. Yes, sir.

Q. That is a general practice in the industry?

A. Yes; it is trade usage. If they make the price on nails, you know what the price is on all the rest of them.

Q. The base price on nails, as given to you in this particular case, was delivered Cincinnati? Or were you given the base price on nails, Pittsburgh?

A. I think that contract was worded "$1.65 Pittsburgh" and whether it said it or whether it was understood, the price was to be $1.70 Cincinnati; but for direct shipments I think it was $1.65 Pittsburgh; that is, direct shipments to our customers outside of Cincinnati.

Q. Who paid the freight in the case where it was $1.65 Pittsburgh?

A. We have not shipped anything direct on that contract. I don't know what they would do in that case.

Q. Does the contract provide for, who should pay the freight at $1.65 Pittsburgh?

A. Nothing is said about that, no, sir.

Q. Do you mean to say that you had on that contract only a difference of five cents between Pittsburgh and Cincinnati?

A. Yes.

Q. Is that five cents a hundred?

A. Yes, sir.

Q. And you say the usual rate is fifteen cents?

A. The published tariff is fifteen cents; yes, sir.

Q. You said you got some fencing from the American Steel & Wire Company in 1913? I understood you to say so.

A. There was some in the spring, yes, sir.

Q. How much tonnage was there in that contract?

A. I believe there was only about five or six cars. We do not sell much fencing.

Q. Fencing?

A. Woven fencing, yes, sir.

Q. Is that the only contract you had with the American Steel & Wire Company for 1913?

A. Well, most of that stuff was bought—maybe I am getting it wrong—my recollection is now most of that stuff was bought in 1912. Now, we got some of it in 1912, and some of it came over into 1913, but what that proportion was I do not know.

Q. Are you now speaking of fencing?

A. Yes, sir; woven fencing.

Q. Going back to smooth wire, barbed wire, nails and

staples, did you have any other contracts than the one contract about which you have testified, with the American Steel & Wire Company, for the year 1913?

A. I think in the spring of 1913 we had some stuff come in that was contracted for the previous fall.

Q. And how much tonnage was there in that contract?

A. I do not remember that any more; probably three or four hundred tons; something like that.

Q. Do you know what the base price, Cincinnati, was on that?

A. No, sir.

Q. For Cincinnati delivery? Was it for Cincinnati delivery?

A. We were at liberty to ship it any place. When we make a contract we can ship those goods any place we have a mind to. Some we ship to Cincinnati, and others we take direct, as we have the privilege of doing.

Q. Do you recall what the price delivered at Cincinnati was on that?

A. No, sir.

Q. Do you recall the base price on that contract at Pittsburgh?

A. No, sir.

Q. Now, referring to this 500 ton contract that you have just testified about, for the year 1913, with what different concerns did you take up the question of selling to you the tonnage involved in that contract?

A. I do not know at that particular time that I took up the question with other mills.

Q. Now, take the contract for 1912 that you placed with the American Steel & Wire Company. With what different concerns did you take up the tonnage involved in that contract?

A. My recollection is that about the same time—within a month or so—we bought stuff from the Kelly Nail & Iron Company and the Belfont Iron Works; probably some stuff from Norton Iron Works.

Q. That is all you recollect in regard to the extent to

which you took up purchases with other companies in regard to that contract?

A. Yes, sir.

Q. Took up prices, I should have said, in regard to that contract.

A. Well, I may have written some Pittsburgh people, but my recollection is nothing resulted.

Q. Then you have no recollection of having directly taken up with any concern the purchase of the steel involved in that contract that you placed with the American Steel & Wire Company in 1912; is that right?

A. Except those names—those people that I gave you.

Q. That was a month or so before, was it not?

A. Along in that time; along, I think it was, in November and December. At that time we generally make our spring contracts, and then we write around a general letter to these various mills, and probably sometimes the bids are not closed for a month. We keep worrying them and aim to have them reduce the price, and when we think it is about right, then we buy; buy as much as they will let us.

Q. How long before you closed that contract with the American Steel & Wire Company did you take it up with the American Steel & Wire Company?

A. I do not know.

Q. Do you know whether you closed it within a week after you communicated with the American Steel & Wire Company, or not?

A. My recollection is that they came in to us, and said this would be a pretty good time to buy now, and I think I said, "I don't believe the price is right," or something like that, and it was put off and put off; I don't know just what the length of time was; it generally runs two or three weeks; maybe a month sometimes, before I do buy. If I do not think the market is quite right, I do not buy.

Q. Is that as near as you can state about taking prices on your tonnage?

A. Yes, sir.

Q. On that particular tonnage?

A. Yes, sir.

Q. You have no recollection whatever about what was the price quoted to you by the American Steel & Wire Company at that time?

A. Not now, no, sir.

Q. You have no recollection as to what the price quoted to you by any other company at that time was?

A. No, sir.

Q. How many contracts did you place during the year 1913 with the Norton Iron Company?

A. I think we had a spring contract with them, but since then I do not believe we have had any contracts. I think we have bought once or twice from them, just on open quotation, a few cars at a time.

Q. In the spring of 1913?

A. Yes, sir.

Q. You made a contract in the spring of 1913 with the Norton Iron Company for what products?

A. I do not say we made a contract in the spring; I think we had a contract with them, and drew some stuff on it along in the spring, but I do not say that we made the contract in the spring, or just when we did make it. I know that we were buying some stuff from them, and it was usually a small contract with them.

Q. You do not know whether you made any contract during the year 1913 with the Norton Iron Company?

A. I do not know that the contract was made in 1913, because the goods for our spring deliveries are usually bought in November and December, and we draw along through the spring. Sometimes we make some contracts later in the spring. I know we bought some stuff from the Norton Iron Works along in the spring; that is, we had deliveries at that time; whether we bought it at that time or not, I am not sure.

Q. Whether that contract was made in the spring, or whether it was made in the preceding November or December, what was the tonnage called for in that contract?

A. Well, I can give you that; probably a couple of hundred tons.

Q. What were the products covered by that contract?

A. The same as these other products, except woven fence; they do not make that.

Q. That is, it included smooth wire, barbed wire, wire nails, and staples?

A. Yes, sir.

Q. What was the base price Pittsburgh on that contract?

A. They are at Ironton.

Q. What was their base price on the contract, wherever they may be located?

A. I told you I could not tell you the price; I said I could not remember any of those 1913 delivery contracts, the prices of them.

Q. With what different companies did you take up the question of supplying you with that particular 200 tons of steel, other than the Norton Iron Company?

A. I do not know that we took it up with anybody else, that particular 200 tons. If you will let me explain a little —we usually place the larger tonnage in November or December for delivery during the spring months, and then possibly later we might feel out the market again to see whether we are right, and we write to somebody else again, and my recollection is that usually Norton was used as a kind of information getter, because they have a reputation at times of making some pretty low prices, and when their price is low, we think that is pretty near the bottom of the market, therefore we rather write them to get information, and when we feel we need a little more stuff we might give them a contract for anywhere from one to two or three hundred tons, and sometimes more; all that they would give us at times, when we thought the price was low.

Q. In that class of instances you simply get quotations from the Norton Iron Company as an index to the lowest market price?

A. No, I do not say we always did that.

Q. But in that class of instances, I am not speaking of your entire contracts.

A. No, we might write other people at the same time. We might write any of the other ones that we did not have contracts with; it may be that just at that particular time we did not have a contract with Norton, or it might be that we

did not have a contract with Kelly, and then we would write to people—of course there would be no use of writing to people with whom we had contracts already, because they would say, "Your contract is the best we have," but we would write to some of the other mills with whom we did not have contracts, to make the price, and then we could tell whether our present contracts were good, or were low prices, and in case we found somebody else was making a little better price, some of these people that we wrote to, it is possible we would write to those people with whom we had contracts and say, "We are offered better figures, and we would like to have you reduce your price."

Q. Returning to this Norton incident, the best recollection you have is that you wrote to that company only at that time?

A. You are making a good deal of or emphasizing this Norton business a good deal; it was simply probably an instance that came along where we wanted a couple of hundred tons more, and we might just as easily have written to somebody else to get a price, and if we thought the price was low we would write to them, if we could use a little more tonnage; we would buy all we could in the spring, in case the price advanced, we have a bigger tonnage, in case of an advance in the spring, we could sell a good deal more than when there is not, and in that way we aim to keep a whole lot of tonnage under contract.

Q. You did not answer the question as to having any recollection of having written any other company than Norton in regard to this 200 tons that you purchased from them?

A. No; I could not say positively as to that.

Q. Now you say you take up your purchases primarily in the spring for your supplies?

A. No, generally in the fall, in November or December; and those goods, what we call our spring contracts, are delivered along after the first of the year. Some of them would run quite a way into the summer.

Q. In November and December you make something of a calculation of what your tonnage is going to be, your tonnage that you will require for the next year, and attempt to buy

up, on one or more contracts, your entire tonnage for the ensuing year as near as you can calculate it?

A. No; a jobber cannot buy ordinarily wire or wire nails except on 60 day contracts. They make the contracts run 60 days, but that is merely a form, because those contracts will usually run until they are taken; sometimes they run four or six months. It just depends on how badly the mills want business. If they want it badly they will let the contracts run along, and if they have plenty of business sometimes they will cut them off in a shorter time than four or six months.

Q. The question I am now asking you is whether in November or December you do, whether you take a contract running 60 days, and that is spread out over a longer time, or not, whether you do at that time buy up your supplies for a period lasting about a year from that date?

A. No, we cannot buy for a year from that date; only on sixty days.

Q. For what time do you buy, then?

MR. LINDABURY: He has answered that question several times, Mr. Colton. This is taking up an awful lot of time on cross examination.

MR. COLTON: I will take the amount of time I think it requires.

MR. LINDABURY: I think I will have to see if there is no power in the court to limit the cross examination as well as the taking of testimony. To have witness after witness cross examined twice as long as on the direct is very unusual, and should be stopped.

(The question was repeated by the stenographer as follows:)

"Q. For what time do you buy, then?"

THE WITNESS: Our contracts usually read about 60 days, but they are frequently extended. Usually nothing is said about it. They usually let it go on until you get the goods.

By MR. COLTON:

Q. Now, what proportion of your requirements in wire contracts are included within the contracts made in the fall, your requirements for the following year, you understand?

A. You mean what proportion we sell in the spring? You

mean, in the first half, as against what we sell in the second half?

Q. No. What proportion of your contemplated requirements for the succeeding year are covered by the contracts which you would make in the fall of a given year?

A. I say, I would judge it would be about half. Our object is to buy as much when the price is low as will carry us through the spring months, pretty close into the summer.

Q. Is there any other period of time in which you purchase for the next half of the year, or the remaining portion of the year, a large tonnage to cover requirements that you have not met up to that time?

A. Not as a general proposition; it depends a good deal on market conditions. If the prices are low we aim to keep covered pretty deeply; if prices are up on an ordinary basis, or high, we kind of buy from hand to mouth.

Q. What different contracts did you have with the Kelly Nail & Iron Company in 1913?

A. I think we had one with them.

Q. What products did that cover?

A. The same as the others, with the exception of wire fence.

Q. What tonnage?

A. I think that contract was a thousand tons.

Q. What date was it placed?

A. In November or December.

Q. In November or December of 1912?

A. Yes.

Q. You cannot give the base price, or can you give the base price?

A. No, sir; I cannot.

Q. With what other companies did you take up that particular thousand ton purchase?

A. The same inquiry was sent out to probably those four or five or six different people that I have mentioned before.

Q. Do you recollect with reference to that purchase of a thousand tons that you did as a matter of fact send out inquiries stating that you intended to purchase a thousand tons of the respective products, to those several companies?

A. No.

Q. Asking for prices?

A. No, the way we would do is this: we would probably ask for prices, send out a letter to all of them asking for prices on say anywhere from 1,500 tons to 2,500 tons; the same letter would go to all these people, and then in placing the business we would usually find that no one of the mills would want to take the whole thing, and we would place maybe a thousand tons here and a thousand five hundred tons or a thousand tons with somebody else, and then maybe we would give one or two other little contracts for about a hundred tons or two or three hundred tons. What we would ask for as to total tonnage would not be placed with one single company, usually, because if one company was shut down we would not be able to get any stuff. Therefore we would split it up a little, and they all knew that.

Q. You tell me what you probably would do, but I am asking whether you have any recollection of what you did with respect to this thousand tons purchase that you made of the Kelly Nail & Iron Company.

A. My recollection is that we sent out these circular letters asking for a price on tonnage of probably 1,500 to 2,500 tons. I do not even know what those figures are, absolutely; and then the tonnage was split up among two or three different companies, probably One of them was Kelly.

Q. Do you have any recollection as to the other companies among whom you split up that tonnage?

A. I know the Belfont Iron Company got some of it.

Q. Any other company?

A. Well, we bought some stuff from the American Steel & Wire Company at that time.

Q. Do you have any recollection as to the respective prices that each of those companies caused you to pay for the tonnages that you took from them?

A. Nothing definite, no, sir.

Q. Do you have any recollection as to what were the different quotations from them?

A. No, sir.

Q. Can you give a single instance upon any contract, from the year 1901 up to January 1, 1913, where you placed or offered a certain quantity of steel to different companies and they quoted you different prices; can you now give the different prices that they quoted you, and who quoted them?

A. No, sir.

Q. Do you have any more distinct recollection in respect to any year previous to 1913 than you have in reference to the manner in which you took up contracts with different manufacturers in the year 1913?

A. No, sir.

Q. Can you give the companies that you did solicit bids from in the year 1901?

A. No, sir.

Q. In the year 1902?

A. Except that we probably asked most of these companies for prices, just as we have been describing.

Q. What do you remember about the year 1902 as to what companies you solicited bids from in respect to your various purchases?

A. I can not definitely say that I asked this company and that company and some other company, but I do know that we pursued practically the same method of asking for prices each year as we have described recently.

Q. For the year 1903 can you give me the different companies from which you actually solicited bids during that year?

A. I guess during the year we asked all of them for prices, at some time or other.

Q. Do you have any recollection as to any companies from whom you solicited bids during the year 1903? If so, name the particular company.

MR. LINDABURY: I object. The witness has already answered as to all of them, and all includes, of course, each one you are now asking him about.

MR. COLTON: He said "I guess."

(By request, the stenographer repeated the pending question as follows:)

"Q. Do you have any recollection as to any companies from whom you solicited bids during the year 1903? If so, name the particular company."

THE WITNESS: I don't know just how to answer that. Some of these concerns were not making wire and wire nails right after the organization of the American Steel & Wire Company. They came in shortly after that. Just as soon as they were organized, whether it was in the year 1901, 1902 or 1903, I don't know—but immediately upon their organization, which was along in that neighborhood, I would commence writing them for prices.

By MR. COLTON:

Q. Writing to whom for prices?

A. These various mills that we have been speaking about. For instance, this Youngstown Sheet & Tube Company. They did not commence to make nails until—I don't know—I believe five or six years ago; something like that. The Pittsburgh Steel Company was organized several years, I think it was probably two or three years, after the American Steel & Wire Company was organized; and the Ironton crowd—I had better specify, I guess—the Kelly Nail & Iron Company, the Belfont Iron Company and the Norton Iron Works all commenced to make wire nails within a couple of years after the time of the organization of the American Steel & Wire Company. Just as soon as those various companies would get started, we would include them in the list as we would write at various times during the year asking for prices.

Q. Would you make the same answer for 1904?

A. Yes.

Q. And for 1905?

A. Yes.

Q. And for 1906?

A. Well, all the years succeeding.

MR. COLTON: That is all.

MR. LINDABURY: That is all.

(Whereupon a recess was taken until two o'clock p. m.)

AFTER RECESS.

FRANKLIN OSCAR SCHOEDINGER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live, Mr. Schoedinger?

A. In Columbus, Ohio.

Q. What is your business?

A. Manufacturing sheet metal building material, and jobbing tin plates and metals.

Q. Have you a corporation?

A. No, sir.

Q. You are in business as an individual?

A. Individual; yes, sir.

Q. How long have you been in business?

A. Over 23 years.

Q. At Columbus?

A. Yes, sir.

Q. I take it you use steel sheets?

A. Yes, sir.

Q. In your business?

A. Yes, sir.

Q. What kind?

A. Black and galvanized steel sheets.

Q. About what quantity in tonnage per year?

A. About 3,000 tons per year.

Q. And you use, I think you also mentioned, tin plate?

A. Yes, sir.

Q. About how much tin plate?

A. About 5,000 boxes per year.

Q. Do you buy any of your sheets from the American Sheet & Tin plate Company?

A. Yes, sir.

Q. About what percentage?

A. About 25 per cent.

Q. Where have you obtained the rest?

A. From manufacturers known as independents, over the country.

Q. Can you name some of them?

A. The Portsmouth Steel Company, of Portsmouth, Ohio; the Stark Rolling Mill Company, of Canton, Ohio; the Canton Sheet Steel Company, of Canton, Ohio; the Phillips Sheet & Tin Plate Company, of Wierton, West Virginia.

Q. Did you mention the Portsmouth Steel Company?

A. Yes, sir.

Q. You buy from them?

A. Yes, sir.

Q. The American Rolling Mill Company?

A. Yes, sir; we buy from them; the American Rolling Mill Company, of Middletown, Ohio.

Q. Yes. Where do you buy your tin plate?

A. From the Phillips Sheet & Tin Plate Company, and the American Sheet & Tin Plate Company.

Q. How long have you confined your purchases to those two companies?

A. For about five years.

Q. Where did you buy before that time?

A. We bought of the N. & G. Taylor Company, of Philadelphia, and a manufacturer at Washington, Pennsylvania; Griffiths Tin Plate Company, of Washington, Pennsylvania.

Q. Did you buy any from the American Sheet & Tin Plate Company during that period?

A. Yes, sir.

Q. What percentage, about?

A. I should think about 50 per cent.

Q. That is, during that earlier period?

A. Yes, sir.

MR. DICKINSON: What years? Have you fixed that period yet, Mr. Lindabury?

MR. LINDABURY: Well, a period prior to five years ago.

By MR. LINDABURY:

Q. I think you said during the last five years, or thereabouts. Your purchases had been confined to the American Sheet & Tin Plate Company and Phillips?

A. Yes.

Q. Now, before that time you purchased about 50 per cent. of your tin plate from the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. How has your trade been divided between the Phillips and the American Sheet & Tin Plate during the last five years?

A. I should think about 50 per cent. with each one.

Q. Have you or not made your purchases on a competitive basis?

A. Yes.

Q. How large is your business in yearly turnover?

A. About half a million dollars per year.

Q. Do you make your purchases from time to time for immediate requirements, or do you purchase generally on contracts for future delivery?

A. Usually on contracts for future delivery.

MR. DICKINSON: Does that apply to tin? Are you asking about tin now, or sheet and tin both?

MR. LINDABURY: Well, I meant both, but I will find out whether he understood it.

By MR. LINDABURY:

Q. Does that answer apply to both sheets and tin plate?

A. Yes, sir.

Q. Do you purchase them both on about the same basis?

A. Yes, sir.

Q. And about what percentage—you said over half—could you give anything nearer than that in a percentage way as to the amount that you have bought on contract?

A. On sheets we buy a larger percentage from the independent mills than we buy from the——

Q. (Interposing) That you have already told. That is not the question; the question is, what percentage of your sheets, I will say first, have you bought on contract basis for future delivery?

A. Practically all of them.

Q. And what percentage of your tin plate have you bought in that way? That is, on contracts for future delivery.

A. Practically all.

Q. Before purchasing, is it your practice to invite quotations from any manufacturers?

A. Yes, sir.

Q. Do you ordinarily buy your sheets and tin plates at the same time, under the same contract, or under separate contracts?

A. Under separate contracts.

Q. Then, take sheets first. From whom do you ordinarily ask quotations on sheets?

A. From the manufacturers named.

Q. Now, will you repeat those?

A. Yes, sir.

Q. As to sheets?

A. Yes, sir.

Q. Never mind; I think you need not. The record shows. Those you named a little while ago?

A. Yes, sir.

Q. And are you or not visited by the representatives of the manufacturers from time to time, who are soliciting trade?

A. Yes, sir.

Q. Do they make you quotations?

A. Yes, sir.

Q. Now, do the quotations that you receive from the manufacturers on solicitation ordinarily agree or disagree? That is, are they ordinarily uniform or variant?

A. Variant.

Q. How is it as to the quotations made to you voluntarily by their representatives? Are they also variant, ordinarily?

A. Yes, sir.

Q. And how long has that been the case?

A. It always has been the case.

Q. Well, for the last ten years?

A. Yes, sir.

Q. Now, as to tin plate purchases are the quotations that you received from manufacturers on invitation ordinarily uniform or variant?

A. More likely to be uniform in tin plate than variant, and more likely to be variant in sheets than tin plate.

Q. That is, there is more variation in sheets than in tin plate?

A. Yes.

Q. Now, how about the prices named to you by the representatives of the manufacturers on tin plate; did they ordinarily vary, or were they ordinarily uniform?

A. Sometimes they would vary, but on tin plate more likely to be uniform.

Q. From how many did you solicit quotations on tin plate ordinarily?

A. From two manufacturers in the last five years.

Q. So that your solicitations were confined to two?

A. Yes.

Q. Before that from how many did you solicit quotations?

A. From three manufacturers.

Q. And are they the three you named a while ago?

A. Yes.

Q. During the last five years, then, when you solicited quotations from only two manufacturers, the Phillips and the American Sheet & Tin Plate Company, were their quotations to you generally the same or were they generally different?

A. Generally different in the last five years.

Q. That is, in the majority of cases they disagreed?

A. Yes.

Q. How was it during the five years before that, when you obtained quotations from the American Sheet & Tin Plate Company and two others; two others, if I understood you correctly?

A. Yes.

Q. Were the quotations then as a rule the same or variant? That is, were they generally variant, or were they generally the same?

A. As a rule variant.

Q. Did you always buy on a selection of price from those quotations, or did you sometimes dicker after getting the quotations?

A. We sometimes dickered after getting the quotations.

Q. Did you dicker with all that quoted, or from a selected number?

A. From a selected number, because some manufacturers had a better reputation for making good goods than others.

Q. Were you ordinarily able to get a better price, as a result of dickering, than those quoted to you?

A. Generally we were able to receive a lower price.

Q. Was there, so far as you have seen during the last ten years, competition, and has there been competition in these products which you have purchased between manufacturers?

A. Yes.

Q. Has it been of an active character?

A. Very.

Q. Why do you say it has been very active? What has been the character of it that leads you to say it was very active?

A. Quotations are usually followed up by solicitations from the travelers for these various companies, and they make strong appeal to get orders.

Q. Do they ever change their price quotations?

A. Yes.

Q. Is that frequent or infrequent?

A. Frequent.

Q. Has that been so during the whole period of ten years that you spoke of?

A. Yes.

Q. A change for what purpose?

A. To secure business, to secure orders.

Q. Are there times when competition is keener than at other times?

A. Yes.

Q. What are they?

A. In what year, or seasons of the year?

Q. Yes, or conditions of trade?

A. Usually competition is more severe at this season of the year, in the months of December and January, than during some other months of the year.

Q. Owing to what?

A. Owing to a natural decline in the business at this sea-

son of the year; there is a smaller consumption going on at this season of the year.

Q. I did not mean to ask about seasons of the year, but rather the state of trade, as to whether or not that had anything to do with the keenness or activity of the competition.

A. Very materially.

Q. How about the boom times, is competition as strong as in dull times?

A. No, sir.

Q. I suppose that has always been the case?

A. That has always been the case.

Q. Now you spoke of a variation in these quotations that have been made to you; would you find one concern generally higher, or would a given concern be higher sometimes and lower at another?

A. Yes.

Q. What?

A. Sometimes a given concern would be higher and sometimes a given concern would be lower.

Q. And have your purchases been based upon the lower quotations?

A. Yes.

Q. You job a good deal, don't you?

A. Yes.

Q. Is there competition in your jobbing trade?

A. Yes.

Q. Keen?

A. Very keen.

Q. Is the margin of profit large or small?

A. Very small.

Q. Does that necessitate your buying as close as possible?

A. Yes.

Q. So that you are obliged to take the lowest quotation?

A. Absolutely.

Q. And you have done it?

A. Yes.

Q. And that explains your buying sometimes from one and sometimes from the other?

A. Yes.

Q. And the general distribution of your trade that you have spoken of?

A. Yes.

Q. And that has been the case during the whole ten years?

A. Yes.

CROSS EXAMINATION

By Mr. Dickinson:

Q. You have stated that your business; that is, the turn-over, was about half a million dollars a year?

A. Yes.

Q. Are you speaking of the present time?

A. That has been our average in the last ten years.

Q. That includes your whole business?

A. Yes.

Mr. Lindabury: Would you mind if I ask him a question suggested to me by Mr. Reed?

By Mr. Lindabury:

Q. And your whole purchases in five years have been confined to the two companies you have named?

A. Yes.

Q. Although they have been confined to the two companies you named, have you been visited and solicited by representatives of other companies during that time?

A. Many others.

Q. And frequently?

A. Yes.

Q. And have they made prices?

A. Yes.

By Mr. Dickinson:

Q. This turn-over of half a million dollars a year, what percentage of that is represented by your sales in steel products?

A. About three-fourths of it.

Q. And what does the other fourth consist of, in a general way?

A. In manufactured products, such as steel ceilings, metal window frames and sash, eaves troughs, and conductor pipe.

Q. Do you manufacture at all?

A. Yes.

Q. What do you manufacture?

A. We manufacture metal ceilings, steel ceilings, metal window frames and sash, eaves troughs and conductor pipe.

Q. These steel sheets you buy, do you use them for manufacturing?

A. We use some of them for manufacturing, and some of them for jobbing purposes.

Q. Part you make up and part you sell?

A. Yes.

Q. The boxes of tin plate: what do you use them for? Do you resell them?

A. We resell that almost altogether.

Q. Take the year 1913: how much steel sheets have you bought, in tonnage, this year?

A. About 3,000 tons.

Q. And that is pretty nearly your average purchase for a year, is it not?

A. Yes, sir.

Q. How much of this was bought on contract?

A. All of it; practically all.

Q. How many contracts were covered by this 3,000 tons?

A. Probably six.

Q. State with whom they were made and the tonnage of each and the times they were made, as nearly as you can.

A. They were made with the Stark Rolling Mill Company, Canton, Ohio.

Q. One or more with that company?

A. Two of them with them.

Q. What tonnage was covered with those two?

A. About 1,000 tons.

Q. From where did you get the other 2,000 tons?

A. From the Canton Sheet Steel Company, Canton, Ohio.

Q. How much?

A. About 1,000 tons; also the American Sheet & Tin Plate Company?

Q. How much?

A. About 750 tons; and the Portsmouth Steel Company, about 250 tons.

Q. Now, as to tin plate: how much of that did you buy for the year 1913?

A. About 5,000 boxes.

Q. From whom did you get that?

A. We got that from the Phillips Sheet & Tin Plate Company, at Weirton.

Q. How much?

A. About half of that quantity.

Q. From whom did you get the other half?

A. From the American Sheet & Tin Plate Company.

Q. Take the year 1912: what tonnage of steel sheets did you purchase?

A. About the same quantity.

Q. About the same amount?

A. Yes.

Q. From whom did you get it?

A. We did not buy any from the Portsmouth Steel Company in 1912, but we did buy from the other three firms mentioned.

Q. How much did you get?

A. About 3,000 tons.

Q. I was going to ask you how much you got from the Canton Sheet Steel Company and how much from the American Sheet & Tin Plate Company.

A. About 1,000 tons from each firm.

Q. Where did you get the other thousand?

A. A thousand from the Stark Rolling Mill Company.

MR. LINDABURY: He mentioned that heretofore, Judge.

MR. DICKINSON: Oh, yes.

THE WITNESS: And a thousand from the Canton Sheet Steel Company.

By MR. DICKINSON:

Q. And a thousand from the American Sheet & Tin Plate Company?

A. Yes.

Q. Take the year 1911: what tonnage did you buy of sheet steel?

A. To the best of my recollection, about the same tonnage.

Q. From whom did you get it?

A. From the three firms just mentioned: the Stark Rolling Mill Company, of Canton; the Canton Sheet Steel Company, and the American Sheet & Tin Plate Company.

Q. How much did you get from the Stark?

A. 1,000 tons.

Q. From the Canton?

A. 1,000 tons.

Q. From the American Sheet & Tin Plate Company?

A. 1,000 tons.

Q. Take tin plate for 1911: from whom did you get that?

A. From the Phillips Sheet & Tin Plate Company, at Weirton, and from the American Sheet & Tin Plate Company.

Q. In what proportions?

A. About one-half to each.

Q. How much did you get altogether?

A. About 5,000 boxes.

Q. All this was on written contracts?

A. Practically all; yes, sir.

Q. Where are those contracts?

A. Where are they now?

Q. Yes.

A. The written contracts?

Q. Yes. These contracts for 1913——

A. They are in my office.

Q. I will ask you to produce those contracts. Where is your office?

A. Columbus, Ohio.

Q. You can either send them on here to counsel on the other side, and they can show them to us, or you can return with them if you wish; any way that is most convenient to yourself. You will do that, will you?

A. I will do it—at the end of each year we have a place where all these things are filed away, and I suppose they are there, unless the rats have gone in and gnawed them up.

Q. The rats are the only things that might have gotten away with them?

A. I think so.

Q. Have you had any special complaint of rats there recently?

A. Nothing special, no.

Q. So far as you know, then, you have them in your possession and will produce them?

A. Yes, sir.

Q. Take the year 1911: in regard to tin plate, how many contracts did you have that year with the Phillips Sheet & Tin Plate Company, and how many with the American?

A. Contracts are usually made for three months periods. Sometimes they are extended; so that it would be impossible to answer that.

Q. You had several with each, did you?

A. Several with each, yes.

Q. Can you give the times of the year at which you made any of those contracts with either one of those concerns?

A. No, sir; I could not, definitely.

Q. Could you give the tonnage under any one of those contracts?

A. No, sir; I could not. We usually made purchases in sheets of 500 tons.

Q. You are speaking, now, of a general impression?

A. Yes.

Q. I am asking you, now, what you have fixed in your memory that you know, that you can recall.

A. No, sir; I could not state that definitely.

Q. Take those contracts for the year 1911: do you carry in your mind any recollection, any specific recollection, at the time any of those purchases were taken up, with a view of buying, from whom you solicited on any of those particular purchases?

A. I do not understand the question.

(By request the stenographer repeated the question.)

Q. Do you understand that now?

A. The likelihood is that we bought—that all of these firms solicited us, or we should not have bought from them. Does that answer your question?

Q. Well, it may answer it. Of course, you are the one to answer and I am not the one to tell you how to answer.

A. Certainly.

Q. I simply want you to answer to the best of your ability.

A. Yes.

Q. You are just going, in that answer, upon a general idea or general recollection of the way you conducted your business?

A. Yes, sir.

Q. You do not recall, do you, the fact of whom you solicited on any particular transaction, and what the prices were under any particular contract of purchase in that year?

A. We always solicited sheets——

Q. (Interposing) I am speaking now of tin plate.

A. Oh, I beg pardon. Tin plate?

Q. Yes.

A. Sheets——

Q. (Interposing) No; tin plate is what I am calling your attention to.

A. Yes. We always solicited tin plate quotations from the two firms mentioned, namely, the Phillips Sheet & Tin Plate Company and the American Sheet & Tin Plate Company.

Q. Now, did you sometimes buy simply upon that solicitation and the prices they would make, and then the bargaining you would make growing out of the quotations given in that way?

A. Yes, sir.

Q. Do you know the number of contracts for any one year, or the proportion that you dealt in that way, as compared with where you solicited others than these?

A. Read that question, will you please?

(The pending question was read by the stenographer.)

By Mr. Dickinson:

Q. I think that is not a very clear question. Take the year 1911; do you carry in your mind any particular transaction that you now recall that you took bids on from any makers other than the Phillips Sheet & Tin Plate Company and the American Sheet & Tin Plate Company?

A. No, sir.

Q. Now, do you, as a matter of fact, state that on any of these tin plate purchases you did take bids in the year 1911 from anybody else except those two?

A. No, sir.

Q. Take the year 1912; would that be the same or not?

A. It would be the same.

Q. How about 1913?

A. It would be the same.

Q. Now, take the years during the period that you have bought, back of 1911, would they be the same too?

A. About five years—from 1913 back for a period of about five years, it would be the same on tin plate; yes, sir.

Q. Now, back of that, take the year 1901. Can you recall now anything definite about purchases that you made that year?

A. No, sir.

Q. Can you recall anything about the bids or the variation in bids, or who made them, so as to give any idea as to what they were, comparatively? Tin plate, I am speaking of.

A. We bought, prior to 1908, from the N. & G. Taylor Company, of Philadelphia, and the Griffiths Tin Plate Company, of Washington, Pennsylvania. This was prior to the time that the Phillips Tin Plate Company—prior to the time that we started to buy from the Phillips Tin Plate Company.

Q. Now, that is prior to five years ago you bought from Griffiths and from Taylor?

A. Yes.

Q. And also from the American Sheet & Tin Plate Company?

A. Yes, sir.

Q. Did you buy from any others except those three, back for the period between 1901 and down to five years ago?

A. Not to my recollection.

Q. Not to your recollection?

A. No, sir.

Q. Do you know and can you say positively that during that time you can recall anything as to prices on bids made by any

other dealers, or as to those particular dealers, or what the variation was, if any, or how they compared with each other?

A. They must have been lower, or we should not have purchased of them. We purchased from the lowest bidders, as it were; from the firms that made the lowest quotations.

Q. Yes; but take any of those particular years—1901, 1902, or 1903—do you know that on all your purchases the bids varied in the year, say, 1902?

MR. LINDABURY: Judge, I do not know whether you meant to go outside of the direct examination, but my inquiry was limited to ten years.

MR. DICKINSON: Oh, I did not understand that. I am much obliged to you.

MR. LINDABURY: I did not ask about 1901 or 1902.

MR. DICKINSON: Well, take ten years ago. That would carry it back to 1903.

MR. LINDABURY: The end of 1903, yes.

MR. DICKINSON: Yes.

By MR. DICKINSON:

Q. Take 1903; have you any recollection at all of the bids that were made, or the relation that they bore to each other, at that time, on any of the purchases you made of tin plate during that year?

A. The quotations that we received at that time, the fact that we bought from these other concerns must indicate that they were the lowest, or made the lowest quotation.

Q. That is your reason, is it, then, for stating that?

A. Yes, sir.

Q. And it is not that you remember that there were variations, but from the fact of your buying you think you bought from the lowest?

A. We always do. I always do, and, therefore, they must have been lower, or I would not have purchased from them.

Q. Well, I will not argue that with you, but that is your reason for stating that?

A. Yes; that is my reason for stating that.

Q. And not that you remember distinctly what the prices were, or anything about their relation to each other?

A. No, sir; I do not.

Q. Now, that was so throughout that whole period, up to the beginning of five years ago?

A. Yes, sir.

Q. Take sheet steel. In 1903, do you know the tonnage you bought that year?

A. My recollection is that the tonnage was about the same as we bought this year. That was an average tonnage. Some years we bought more than 3,000 tons, and other years we bought less. My recollection is that 1903 was a good business year.

Q. Would you undertake to say that you now recall from whom you bought that year, and the tonnages that you bought?

A. No, sir.

Q. You could not do that?

A. No, sir; I could not.

Q. Well, have you any recollection about the prices or the quotations that year?

A. No, sir.

Q. Or their relation to each other?

A. No, sir; I have not.

Q. As to what year could you give that? How far back could you go? I will begin with whatever year you say, and ask you about that. I mean, what is the farthest year back now that you remember distinctly from whom you purchased and who the bidders were, upon any of those purchases, and what the variations were in the prices? How far back would your memory serve you on that?

A. I can recollect very distinctly about prices a year and a half ago.

Q. Well, is that as far back as you think you could answer those questions?

A. Yes, sir.

Q. With any sort of safety?

A. Yes, sir.

Q. I believe you stated that the prices on tin plate were more uniform than they were on sheets?

A. Yes, sir.

Q. And how long did that prevail?

A. It has always prevailed; it has prevailed for the period we are talking about; ten years.

Q. Ten years?

A. Yes, sir.

Q. Now, please explain a little more fully what you mean by that, and I will ask you whether or not it is a fact that for long periods during the ten years, for as much as weeks at a time, or months at a time during that period, the price in tin plate was not uniform—the first quotations from the manufacturers?

A. Very frequently not uniform.

Q. Yes; you say very frequently not. I am just asking the opposite of that, if very frequently they were.

A. Very frequently they were.

Q. I understand by that that there would be periods, and frequent periods, during ten years, when prices would vary. That is correct, is it?

A. Yes.

Q. And there would also be periods, and they occurred frequently during the ten years, when the prices of the manufacturers over periods of time would be uniform?

A. Yes.

Q. When those prices would come to you, then, would you dicker and bargain?

A. Yes.

Q. Did you always, by bargaining, get below this uniform price quoted to you?

A. Not always, but usually.

Q. Sometimes you could not break through that barrier?

A. Absolutely.

Q. And that occurred often, did it, in ten years?

A. No, not often.

Q. But it did occur?

A. It did occur.

Q. You could not state the proportion of times or give any proportion of percentage as to when one prevailed over the other, could you?

A. No.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. When one manufacturer made a lower bid than another, did you ever give a higher bidder a chance to meet the price of the lower, and share in the order?

A. Yes.

Q. And would the higher bidder sometimes do that?

A. Yes.

Q. And then would you divide your orders?

A. Yes.

JAMES IRWIN STEPHENSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. What is your business?

A. The Cincinnati Iron & Steel Company. I am president of that company.

Q. How long has that company been in business?

A. Since 1901, January 1st.

Q. How long have you been its president?

A. About three years.

Q. What was your connection with it, if any, before that time?

A. I went with the Cincinnati Iron & Steel Company as vice-president nine years ago the first of this last September. I succeeded my partner as president when he died about three years ago.

Q. Have you had anything to do with the purchases?

A. Yes, from the time I went with the company I have had something to do with them.

Q. Have you had charge of them at any time?

A. Practically, yes.

Q. Practically all the time?

A. Yes.

Q. And the company was formed, you said, when?

A. 1901.

Q. So that it had been in business a little while before you went with it as vice-president?

A. Yes.

Q. What is the business of that company?

A. We are iron and steel jobbers and merchants.

Q. Do you do a brokerage business too?

A. Yes, we have quite a large brokerage business.

Q. What do you handle?

A. Structural shapes, plates, bar steel, bar iron, blue annealed sheets and some light sheets; that is about all.

Q. What tonnage passes through your books?

A. This year we will use 40,000 tons, but that has grown. When I first went there we used about 8,000 or 9,000 tons, and we increased very rapidly ever since each year.

Q. But from 8,000 or 9,000 tons up to 40,000 tons?

A. Yes.

Q. Do you buy and sell anything outside that does not go through your books?

A. Yes, we are district sales agents for the Lackawanna Steel Company on a commission basis.

Q. How long have you held that agency?

A. Well, I left the Carnegie Steel Company to go with the Cincinnati Iron & Steel Company, and took charge of that branch of the business as agent for the Lackawanna.

Q. When was that?

A. Nine years ago the first of last September. I was assistant manager of the district office at Cincinnati for the Carnegie Company.

Q. How long were you with the Carnegie Company?

A. Well, I would have to count up.

Q. Never mind; approximately?

A. Between nine and ten years.

Q. What percentage of your business during the last nine years has been in structural shapes and bar steel?

A. I would say between 75 and 80 per cent of it.

Q. That has been so during the whole period of nine years, has it?

A. Yes; we are pretty heavy on those lines.

Q. Did you ever buy from the Carnegie Company exclusively? I mean, shapes and bars?

A. Well, shortly after leaving them we bought quite a little tonnage, for us, from them, for several years, of such material as was not manufactured by the Lackawanna Steel Company. We being their agents, naturally were bound to give them everything that they could make.

Q. You mean to the Lackawanna, now?

A. That is, the Lackawanna, yes; but they only had a limited range of product, which made it necessary for us to buy probably 50 per cent. of our consumption elsewhere

Q. Now, where di! you get that 50 per cent. during the years 1904, 1905 and 1906?

A. We bought the bulk of that from the Carnegie Steel Company, if I remember correctly.

Q. How did that happen?

A. Well, we got a better deal with them.

Q. A better price?

A. A better price than we got from the other people.

Q. And you bought it on a competitive basis, did you?

A. Well, I tried the other fellows out. They never came to us, particularly, and I found that going to my friends, the Carnegie Steel Company, they put me in a position to do business at a lower price.

Q. That is what I meant; they gave you a lower price than you could get from the others?

A. Yes.

Q. How about since 1906?

A. I do not know just when we quit doing business with the Carnegie, but for five or six years, or four or five years, we have not bought very much from them; in fact, we have only bought such sections as nobody else could make, or else in competition on quick delivery.

Q. Where have you bought from during the last five or six years?

A. We have bought from Jones & Laughlin, the Lackawanna, Republic Iron & Steel Company, the Cambria Steel Company, Portsmouth Steel Company, La Belle, American Rolling Mill, from Worth Brothers, some; that is, in iron and steel products.

Q. Have your purchases been made from them on a competitive basis?

A. As a rule they have.

Q. Did you buy from the concern ordinarily which offered the lowest price?

A. Not always.

Q. What other factor entered into the trade?

A. The condition of that mill for quick delivery.

Q. From which of those named have you bought the largest percentage during the last five or six years?

A. The Lackawanna would have the first call and Jones & Laughlin would get a nice bunch of tonnage; sometimes the Republic Iron & Steel; sometimes the Cambria Steel Company.

Q. Have you found the prices of these different concerns varying or uniform?

A. Why, sometimes they are very much the same and sometimes they vary. It depends on the conditions.

Q. Did they or not generally vary more or less?

A. I might say generally—but if I thought the conditions were such that we should have several sources of supply, if we could get one fellow down to where we thought it was reasonable to go ahead and cover on a contract, we generally arranged some tonnage to the others, provided they would accept it at the same basis.

Q. And did they do that frequently?

A. Quite frequently.

Q. That is a matter of barter, I suppose?

A. Yes; private negotiation, really. Their salesmen would very seldom come to see us, because I go to the bosses when I buy.

Q. Does your last answer apply to your method of doing business generally during the last five or six years?

A. Altogether.

Q. You do not depend upon quotations alone—I mean in answer to those requests—or quotations from the salesmen?

A. I do not depend on the salesmen at all when we are buying. We look to the salesmen for general gossip as to the condition of the market, what their experience is and what prices are going. We put that together with the information that we get from our own men, to keep the thing sized up generally.

Q. Upon what principle do you select the concern that you dicker with; or do you dicker with all of them?

A. We dicker with all of those mentioned. If the Lackawanna makes us a price and I have to go out and resell that stuff, and that price will not permit me to do that and make a proper profit, I say so; and if they do not come across, there is only a certain amount of tonnage. We have to resell all of our product.

Q. What does that make necessary?

A. A lower price.

Q. A lower price than what you sell it for?

A. Yes.

Q. That is what you mean?

A. Yes.

Q. Have you found, as a result of this course that you pursue, that the prices of the different concerns were not constant, but were flexible?

A. The flexibility would depend upon the amount of persuasion and the desirability of your tonnage.

Q. I am supposing you had a desirable order to offer. Then did you find that the prices were flexible?

A. Generally.

Q. Did you find that the prices at which you made your contracts corresponded with the quoted prices in the Iron Age, or did they differ?

A. We never depended on those prices at all. They were frequently very much off.

Q. Is that true of the whole period of ten years last past?

A. I have never depended upon the trade papers at all.

Q. Do you see them?

A. Yes; I see them.

Q. You have noticed their quotations?

A. Yes.

Q. With what result?

A. Well, as a rule, I have not had very much respect for them?

Q. Why?

A. They did not represent what I was doing, and what I was forced to do, to sell to others, quite frequently.

Q. Did they represent what the manufacturers were actually asking from you, either?

A. No; except in some cases. They would report prices which were a good deal higher than those you could buy at, and they would also report prices which were lower than we could buy at, try as we might.

Q. Has there been any time during the last ten years when there has not been active competition in all these steel products that you have bought?

A. My impression is that there has been a great deal of competition?

Q. And during that whole period?

A. During that whole period.

Q. Is that true of each of the articles that you deal in?

A. Yes, sir.

Q. And has that competition been between all of the concerns that you have named, or between only a part of them; that is, have they all competed with each other, or has the competition been confined to a few only?

A. The competition is between them, and competition is also between us and them after we buy the stuff and go out and sell it against them.

Q. Do you sell against them some of the things you buy?

A. Yes, sir; we have to.

Q. Have you found that fact affected your purchasing ability from them?

A. No, sir; they like our specifications pretty well; they are very desirable.

Q. And they sell on your specifications without regard to what you are going to do with the articles after you have bought them?

A. Exactly; except that they do not want us to go after some of their old trade that they have had on their books for years and try to disturb it, which is perfectly natural.

Q. You have represented the Lackawanna; do you sell for them?

A. Yes, sir.

Q. And that has been so during the whole nine years?

A. Yes.

Q. Do you sell all their product that you are able to?

A. Yes.

Q. In what territory?

A. In the States of Tennessee, Kentucky, the southern half of Ohio and Indiana.

Q. Have they been sold in competition with the products of the other steel manufacturers?

A. From the way we work I should say so.

Q. What do you mean by that?

A. Chasing after the business.

Q. Do you quote a price agreed upon by the other manufacturers, or your own independent price?

A. I quote, as a rule, what our general sales agent says that we should quote.

Q. So far as you know, is that price a price agreed on with any other manufacturer?

A. Not so far as I know; and furthermore, if that price does not take the business, we are not sure that is the end; we might hang around two or three days and get another shot at him.

Q. With a different price?

A. Sometimes.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. COLTON:

Q. When did you first begin to read the Iron Age regularly?

A. I never did read it regularly.

Q. The prices in the Iron Age; when did you first take those up regularly from week to week, if at all?

A. Oh, I have never noticed them regularly. Probably just in an occasional way; I read the Pittsburgh notes and what Chicago says. I read it more for the general conditions in the trade than I do for prices.

Q. You have not paid very much attention, then, to the prices in the Iron Age?

A. Oh, when I look at it I see what the prices are enough to compare them in my own mind with conditions which I know.

Q. What is the first year that you began to do that?

A. When I was—naturally, when I first went in the steel business, about twenty years ago.

Q. You began to read the Iron Age twenty years ago?

A. Just about.

Q. Did you begin reading the prices twenty years ago in the Iron Age?

A. Just about.

Q. And you have been reading them ever since?

A. Off and on.

Q. How regularly did you read the prices during the years 1904 and 1905?

A. I could not tell you. Probably every other week; maybe every week. I don't remember that. I have tried to keep posted on the market.

Q. Do you have any recollection as to how the prices on structural steel during the years 1904 and 1905 corresponded or varied from the prices in the Iron Age?

A. No, I do not remember.

Q. Did you not read in the Iron Age about the structural and plate pools and other pools that were in existence at that time?

A. Oh, there were certain rumors in the trade that I heard of, but I never knew anything about that.

Q. And you do not know how far the official prices of these various pools were maintained at that time, do you?

A. I was always instructed to get the business, and I generally got it.

Q. Were you not given a price at which you were to get the business?

A. Yes, and if that did not take, I frequently got on the long distance telephone, and it would end by my getting the business, if the specifications were desirable and the credit of that man was also desirable, and we could meet the delivery.

Q. Who gave you the prices at that time, in 1905? From whom were you receiving your prices at that time?

A. Let us see. In 1905, I think Major Rhodes then; Major Rhodes then, I believe, was general sales agent of the Lackawanna Steel Company.

Q. Did you have any authority, without communicating with Major Rhodes, to vary the price at that time?

A. I want to locate this period, because I left Carnegie nine years ago. Let us see, nine and five are fourteen. Why, I do not remember at that time whether I did or not.

Q. The general policy was to establish the price at headquarters, in the first instance, was it not?

A. Yes, the general sales agent originated the price always.

Q. And that was your price in the first instance, in any event?

A. Yes.

Q. And has that been true throughout the period, as regards the Lackawanna Steel Company and your agency for them?

A. Exactly.

Q. And was that true of the Carnegie Company throughout your connection with that company as sales agent?

A. Yes, sir.

Q. Do you now have, as to the year 1905, any recollection as to how far the Iron Age prices of structural steel corresponded to the prices that you received from your general sales agent?

A. No, I have no recollection about that.

Q. Have you for the year 1906?

A. No, I have not.

Q. 1907?
A. Not very distinctly, no.
Q. 1908?
A. No, I could not say that, either.
Q. 1909?
A. Nor that, either.
Q. 1910?
A. I don't remember that
Q. 1911?
A. 1911?
Q. Yes.
A. Let me see. Not exactly, no.
Q. 1912?
A. Well, there was considerable variation.
Q. In 1912?
A. Yes.
Q. You recollect that?
A. I do.
Q. In 1913?
A. The same.

Q. Now, take plates; do you recall the questions I asked you in regard to structural material well enough to answer the same questions for the different years from 1905 down to the present time, in regard to plates?

A. As far as prices are concerned, my answers would be the same, because I have no memory along those lines particularly. I would have to get the data and look it up.

Q. If I asked you in regard to bar steel, would your answers be the same?

A. In the same way.

Q. As to sheets, would your answers be the same?

A. No.

Q. Well, suppose we take up sheets.

A. I do not know. If you call the years, I cannot remember any specific year, but I know that we started in the blue annealed sheet business—you can leave out our light sheet business, which does not amount to anything—but on blue annealed, which takes a gauge from 10 up to 16, we bought at all kinds of prices for the last four or five years from the

Stark Rolling Mill, La Belle, Portsmouth, and the American Roiling Mill Company.

Q. Your recollection in reference to sheets, then, goes back four or five years?

A. Just in a general way, because that was an item we were starting in to develop. The other was an established business.

Q. As I understand, you found a wider variation in respect to sheets than in respect to structural products and plates?

A. If you will ask that question in another way, I might give you something different, or something more satisfactory, and that is this: the structural market, whatever it was supposed to be, and whatever it was shown, we were always able to do better—sometimes a dollar and sometimes a dollar and a half and sometimes two dollars a ton, and on top of that, we might turn around, and for the sake of delivery, pay one dollar or two dollars a ton over that prevailing market, in order to give service to our trade.

Q. What do you mean by the "prevailing market" as used by you in that answer that you have just made?

A. There are times in the steel trade where the mills are booked, say, 60 or 90 days ahead, and they are very comfortable, and you might say then that you have a market which has sought its natural level. The object in the steel business is not to sell at the lowest price that you possibly can, but to sell at as high a price as the trade will stand and still get the business. So where a man is comfortable and is not running around after orders, and he has his mills booked for 60 or 90 days ahead, he says "This is my price." It may be two or three dollars a ton over what the other fellow wants, but the other fellow holds his price down to keep the market from running away, and killing the goose that laid the golden egg, which has been done in the past.

Q. What do you mean by "the prevailing market"? I do not understand that.

A. The market ruling at the time.

Q. Ruling by whom?

A. For instance, I can cite this last year, if that would be an illustration.

Q. I want to know what you meant when you spoke of the "prevailing market," whatever you do mean by it.

A. Why, the ordinary market price at which a fellow comes in and says "I want a carload of stuff," and you say "The price is so and so."

Q. Is that the general price?

A. The general price.

Q. Made by the different manufacturers?

A. Made by the different manufacturers; some of them wanted more if they could make a quicker delivery.

Q. And that is the price from which you could get a concession, the price on which you would have to pay a premium above, is that right?

A. Yes; that is about right.

Q. Now, the Iron Age quotes premiums over the prevailing prices, does it not, ordinarily, for speedy delivery?

A. It has in the last year and a half, because there has been such a congestion among the mills, and been so much premium stuff that it has really represented the real market.

Q. The premium has come to represent the market in the last two years?

A. A year and a half. That is the point I was going to make a while ago, that corporations, for instance, who were selling structural steel quoted structural steel at $1.45, and you could not give them the business, because they could not promise delivery, as a rule; they were booked up for seven or eight months ahead, but if you went to Cambria or some other fellow and paid him $1.50 or $1.55 or $1.60 you could get your stuff maybe in two weeks or maybe two months.

Q. You are speaking of the conditions as they existed about 1912, I understand?

A. As they existed in 1912 and the first half of 1913.

Q. Now, this prevailing market price of which you have spoken would continue for considerable periods of time during the various years in structural and plates, would it not?

A. Well, there would be what you might call a market

level, which would be based upon the mills being in good shape, with orders on the books, and the premium would disappear when the mills caught up, and they would start after the business.

Q. Now, getting back to this prevailing market price; as I understand, that has continued at different periods of time for several weeks or months at a time, has it not?

A. Yes.

Q. And that has been true throughout the period of the last ten years?

A. No; I would not say that, because if I referred to a prevailing market price I would refer to a price on common, ordinary business, the garden variety of stuff, a carload of bar steel with fifteen sizes in it. If you came along with a thousand tons, with two or three sections in it, you could buy it and buy it right.

Q. Large orders enabled you to break through this market price to a much greater extent than you could break through the market price if you had a small order to place, did it not?

A. Desirable tonnage, or specifications on which the mills could make more money than they could on just the little ordinary stuff, with us invariably got a better price.

Q. And the volume of your business and the character of your specifications gave you strength in getting the kind of prices that you succeeded in getting; is that right?

A. Invariably so; it is a matter of tonnage with all the mills.

Q. What tonnage of structural steel did you get from the Lackawanna in 1905?

A. I don't remember. Our contracts, as a rule, cover structural shapes, plates and bars. If the conditions were right we generally took all that tonnage and maybe more; if they were not, we did not.

Q. You have a minimum tonnage with them, or a maximum tonnage?

A. As a rule the contract generally called for a leeway.

Q. I know the contracts called for a leeway, but did not

you have specified in there a minimum tonnage that you shall take out and then a maximum tonnage that you may take?

A. Yes; say 5,000 to 6,000 tons, or something like that.

Q. During the year 1905 from what other makers do you now recall that you purchased structural steel?

A. My best recollection is the Carnegie Steel Company.

Q. Is that the only company from which you purchased other than the Lackawanna?

A. I could not say; we might have bought some from the Cambria Steel Company.

Q. That is the only one that you do remember for the year 1905?

A. That is the only one I can say definitely.

Q. What kind of contract did you have with the Carnegie Steel Company for structural steel during the year 1905?

A. I really couldn't tell you.

Q. Did it specify a minimum tonnage?

A. They all specify a minimum and maximum tonnage.

Q. In the year 1906 from what company other than the Lackawanna did you purchase structural steel?

A. Carnegie Steel Company.

Q. And that is the only company that you can remember for the year 1906 other than the Lackawanna?

A. We were splitting our business practically between the two, outside of bar steel; we bought some from the Republic.

Q. How long did you continue to split the business in that manner?

A. To tell you the truth, I do not know; I know that the time came when I could not buy from the Carnegie Steel Company on conditions which suited me, and we flopped over to Jones & Laughlin and the Cambria.

Q. And you cannot tell the year?

A. No, I cannot.

Q. I understood you to say that you took up your contracts with friends in the Carnegie Steel Company. With whom did you take up the question of placing your contracts with the Carnegie Steel Company in 1905 and 1906?

A. I used to deal with Sam Benner, Samuel A. Benner; he was sales agent then, and Colonel Bope.

Q. You have been under both of those men, Mr. Benner and Colonel Bope?

A. Yes.

Q. Then for the year 1907, can you state whether you purchased structural steel from any other companies than the Carnegie and the Lackawanna Company?

A. I could not, positively, no.

Q. For the year 1908 can you state?

A. I think that is about the time that we quit Carnegie, but I would have to look that up—I couldn't remember that.

Q. In 1908, from what different companies did you purchase structural steel?

A. Well, one of them would be the Lackawanna; I think the other would be Jones & Laughlin, and we might have gotten some from the Republic. They only make structural angles.

Q. During the years 1905 to 1907, inclusive, in which you were splitting your business between those two companies, do you now recall any other companies from whom you solicited bids on your various tonnages, and if so give the names of the companies, if you can?

A. What period of time was that?

Q. 1905 to 1907, inclusive.

A. I tried a number of times to buy from the Cambria Steel Company. There is the Carnegie, Jones & Laughlin, the Lackawanna and the Cambria Steel Company; they were the ones that made structural steel, outside of these eastern fellows that were too far away. We tried a number of times to get prices from the Cambria Steel Company which would enable us to handle the business, but we were never able to do it until some years later.

Q. When did you first try Cambria?

A. I don't remember; I think it was probably about 1907; around in there, about two years after I went with these people.

Q. Is the Cambria's freight rate the same as the Pittsburgh freight rate, if you know?

A. I am not sure but what it is a little bit higher.

Q. Of course you would look at the delivered price rather than the f. o. b. Pittsburgh price in determining whether you would place your order with Cambria or Jones & Laughlin would you not?

A. No, not altogether, because we ship stuff all over the United States; if we made a deal we would put it on the basis on which prices have for years and years and years been quoted. That is on a Pittsburgh base, so that everybody could figure on Pittsburgh freight and know where they were at.

Q. Don't you purchase a very considerable portion of your steel for delivery in Cincinnati?

A. Yes, about half of it.

Q. About half of it is for reshipment from there?

A. Yes.

Q. Do you also purchase for delivery in Cincinnati where the manufacturer pays the freight?

A. Nobody ever prepays for us.

Q. You prepay the freight yourself?

A. No; we do not prepay; we follow.

Q. Do you now state as a matter of recollection that you did solicit bids from the Cambria Company for 1907?

A. Yes; I am pretty sure. We wanted as many strings to our bow as we could get.

Q. You do not remember what they quoted you at that time?

A. No.

Q. From what companies did you solicit bids in 1908?

A. The Lackawanna, Jones & Laughlin, I think, and the Republic.

Q. In 1909?

A. About the same. You can take it all the way through and those are the people we have been doing business with.

Q. You did not try Carnegie during those years that you have said "take it the same for the rest of the years"? You meant you did not try——

MR. LINDABURY: He has not said he did not try Carnegie in 1907 and 1908.

By Mr. Colton:

Q. Did you try Carnegie in 1909?

A. We gave the Carnegie Steel Company opportunities to get our business right along. I don't remember just when we quit it, but it was several years after we quit that I made the remark to one of the Carnegie men, I think it was Billy Clyde——

Mr. Colton: I object to that as volunteered.

Mr. Lindabury: Go on and finish your answer, Mr. Stephenson.

Mr. Colton: I object to that statement as volunteered.

Mr. Lindabury: You may move to strike it out, but the witness must be allowed to finish his answer.

The Witness: I made the remark then that they did not seem to care anything about our business any more.

By Mr. Colton:

Q. Did you quit asking them for quotations then?

A. I don't remember when.

Q. At that time?

A. After we had gone over there with actual specifications on a few occasions, we had laid them on the table, and they evidently looked awfully good to them, because they took them——

Q. After you made that remark which you have just quoted, to the effect that the Carnegie Company did not care for your business, how long was it after that before you again solicited the Carnegie Company on your purchases?

A. Oh, I don't know; it might have been a few months or six months or a year.

Q. When did you make that remark?

A. That remark, I think, was made about five or six years ago.

Q. That was your opinion at the time you made that remark?

A. Yes.

Q. From whom were you purchasing the majority of your plates during the period from 1905 to 1907, inclusive?

A. The Carnegie, and Lackawanna, such plates as we used. We were not very heavy in the plate business then.

Q. You divided your tonnage in plates between those companies, to the best of your recollection?

A. Yes.

Q. From what companies did you purchase your bar steel during the years 1905 to 1907, inclusive?

A. The Carnegie Steel Company got the bulk of it.

Q. From 1907 to 1910, inclusive, from what different companies have you purchased your bar steel?

A. Our bars were purchased right along with the structural, the same contracts.

Q. So your answers for the different companies from whom you purchased your structural steel would be, with the exception of the Republic Company, the same for bars as for structural steel; is that right?

A. Yes, sir.

Q. And your plate business did not amount to much until—when?

A. It began to grow about four years ago, along with our blue annealed business.

Q. In 1909?

A. Yes.

Q. And in 1909 you purchased plates from what different companies?

A. The La Belle Iron Works, the Portsmouth Steel Company, and of course, blue annealed steel went right along in with that—outside of Jones & Laughlin and the Lackawanna Steel.

Q. You understand that when I speak of plates I refer to that class of material that is usually called plates as distinguished from sheets?

A. Oh, yes; that is what I mean. Our plates and blue annealed tonnage went together, as a rule, because we could make mixed carload shipments.

Q. Is that 12-gauge and thicker?

A. The plate is No. 8 gauge and heavier, and blue annealed is No. 10 gauge up to 16 inclusive.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. Only a question or two more. Mr. Stephenson, do you remember Herbert Sanborn Smith, in connection with the general sales agency of the Lackawanna Company?

A. Very well.

Q. And do you remember whether or not he was sales agent when you took the agency for that company?

A. He was not at that time.

Q. Do you remember how soon he became general sales agent?

A. Not exactly. I have no memory for those things that are past, but he succeeded Major Rhodes when the Major died.

Q. You do not recall about when that was?

A. No, sir; I really do not.

Q. Was he there for some time?

A. Yes; for quite a number of years.

Q. Why did you remark that the Carnegie Company did not seem to want your business, on the occasion you say you made that remark? Were their prices higher than the others?

Mr. Colton: I object to that as immaterial and irrelevant, and to the latter part of the question as leading.

By Mr. Lindabury:

Q. You may answer.

A. They would not give me a price that would enable me to do business.

Q. Would they not give you a price that compared favorably with the prices you got elsewhere?

A. No; I could always beat their price.

Mr. Lindabury: That is all.

RECROSS EXAMINATION

By Mr. Colton:

Q. One other question: In what tonnage do you usually place your contracts? How many tons do you have in your contracts, as a rule?

A. Well, that depends on conditions. Sometimes we will buy for three months and sometimes for six months.

Q. I know; but about what tonnage would that be?

A. Anywhere from 3,000 to 5,000 tons.

MR. COLTON: That is all.

MR. LINDABURY: That is all.

EDWARD W. GREENO

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live, Mr. Greeno?

A. Cincinnati.

Q. What is your business?

A. Jobbing supplies to the furniture trade and the manufacture of steel furniture springs; wire springs.

Q. Have you a corporation?

A. We have.

Q. What is its name?

A. C. L. Greeno Company.

Q. What is your relation to that company?

A. President and treasurer.

Q. How long have you held those offices or either of them?

A. I have been president about one year, and I have been treasurer nine years.

Q. Have you anything to do with the purchases of supplies?

A. For the end of the business which we call our spring department, I buy all the material for that department.

Q. How long have you been doing that?

A. For approximately ten years, directly and indirectly. My father formerly had charge of this department of our business, and up to five years ago he bought the material him-

self, although I was his assistant and oftentimes bought, but with his knowledge; and for the last four or five years I have had entire charge of that end of it.

Q. Was this business originated by your father?

A. It was.

Q. How long ago?

A. Well, about forty years; it has been in existence about forty years.

Q. How long have you been connected with it?

A. Well, indirectly, ever since I was a boy; I guess about sixteen or seventeen years.

Q. How much wire do you buy a year?

A. It varies from 800 to 1,000 tons.

Q. Do you buy anything except wire?

A. We buy hoop.

MR. DICKINSON: What is that? Hooks?

THE WITNESS: Hoop; steel band hoop.

By MR. LINDABURY:

Q. How much of that do you buy?

A. About 200 tons.

Q. And just what do you do with the hoop?

A. Well, with the hoop we manufacture a support on which we mount springs which are used in the manufacture of furniture, for the seats; for automobile seats and wagon seats, and kindred use.

Q. Those that we see in the trade?

A. Yes; the regular trade article.

Q. And do you buy your springs coiled, or the wire and coil them?

A. We buy the wire and manufacture the springs.

Q. And it is this wire that you have been purchasing as you have said?

A. Yes.

Q. That is your principal article of use?

A. Yes.

Q. How do you buy your supplies; on a competitive basis, or on some other?

A. On a competitive basis.

Q. Do you buy anything from the American Steel and Wire Company?

A. We do.

Q. From anybody else?

A. Yes; from the Youngstown Sheet & Tube Company and Page Woven Wire Fence Company, and, oh, various companies at different times, but those are the most important companies.

Q. Do you buy from John A. Roebling's Sons?

A. We have bought from Roebling, but on account of his location, he is pretty near out of our market there to-day.

Q. Yes. Now, do you buy on contracts for future delivery, or for immediate supply—for immediate requirements?

A. Well, as a rule we buy on contracts covering a period of six months, for so many tons to be taken out during that period.

Q. Do you get quotations?

A. We do.

Q. How? By solicitation?

A. By solicitation, principally, from salesmen, although at times, when the salesman has not been in that territory, or when we want to place orders, we write for them.

Q. How many salesmen visit you? How many concerns?

A. Well, I would say about four or five.

Q. Do they do it regularly; that is, frequently?

A. They do it frequently.

Q. In the regular course of their business?

A. Yes; probably within the period of every sixty days. Some of them oftener than that.

Q. Do they make quotations to you?

A. They do.

Q. And, in addition to that, I understand that you sometimes write to the manufacturers for quotations?

A. Yes.

Q. When the agent has not——

A. (Interposing) When he is not there, and we want to learn what the market price is, or we want to buy.

Q. The quotations you get from these concerns, do they ordinarily agree or vary?

A. There have been instances where they have agreed, but very rare; as a rule, they vary.

Q. And to an appreciable extent?

A. Well, what we would term appreciable; oftentimes to the extent of 50 cents to $3.00 a ton.

Q. That is material oftentimes, is it?

A. Yes.

Q. From how many do you generally get quotations?

A. From three, which are the most important people in this line.

Q. Do you get them regularly?

A. Yes, regularly.

Q. Which three?

A. The American Steel & Wire; Youngstown Sheet & Tube, and the Page Woven Wire Fence Company.

Q. How long have you been getting quotations regularly from them on all your purchases?

A. Well, I would say three years on the three. Prior to that time we got regular quotations always from the Youngstown and the American, and during the course of those years we always got quotations from the others, because their men were in to see us at various times, and would leave their prices, and we would record them for comparison.

Q. Your statement that agreement in quotations was rare, does that apply to all of them?

A. Yes.

Q. That is, there were no two of them that generally agreed?

A. No.

MR. DICKINSON: I object to that as being leading.

By MR. LINDABURY:

Q. If any two agreed at a given time, did they generally agree at a succeeding time, or would there be another two who would agree if there was an agreement?

A. I never can recall a time when two quotations continued for any length of time to be the same.

Q. And you are speaking now of the whole period of ten years, are you?

A. Yes.

Q. Did you ever observe anything to indicate a combination between these manufacturers on prices?

MR. DICKINSON: This is objected to as incompetent, because it calls for an opinion of the witness, not upon any given state of facts, but what may present itself to his own mind, and which is unrevealed to the Court.

THE WITNESS: I never did.

By MR. LINDABURY:

Q. Has there been any time during the last ten years when competition between these different concerns was not active?

A. Not to my knowledge.

Q. I mean, as they approached you and as you came in contact with the business?

A. There was always competition. They had inducements of some kind to offer in the way of price or delivery.

Q. And did that competition seem to be keen all the time?

A. Yes; keen enough for them to come back again and keep right after it.

Q. Did they change their quotations at times?

A. At times there has been a change, when they would see a disposition on our part not to buy right at that period. They might come back at us again with a little more attractive proposition in some way.

Q. Would that practice be confined to one, or would it be more or less indulged in by all of them?

A. More or less with all of them.

Q. Where is your market?

A. What do you mean by that?

Q. The market for your products?

A. Well, the Southern States, and the Central States; some Eastern States; through the Northern States; in the far east we sell very little.

Q. Have you competition for the sale of your products?

MR. DICKINSON: This is objected to, because it does not appear that the products sold by the witness are of the same character as the products which are involved in any of the issues in this case.

MR. LINDABURY: He has told what he sells. Go on and answer the question.

THE WITNESS: I have plenty of competition.

MR. DICKINSON: Well, what do you sell? Mr. Lindabury says you have told what you sell. I did not understand it.

THE WITNESS: We manufacture springs of all kinds; principally the kind of springs which are used in automobile seats and used by the furniture trade for seat construction.

By MR. LINDABURY:

Q. Who are your leading competitors in the sale of your springs?

A. The American Steel & Wire Company is our leading competitor, I would say, although the Morgan Spring Company—I guess we have about the same respect for them in the way of competition.

Q. Do you think of any more?

A. Foster Brothers, of Utica, New York, and St. Louis, and the Miller Spring Company, of Bridgeport, Connecticut. There are a great many more; I cannot think of all of them.

Q. Well, if you can think of any others?

A. The Jackson Cushion Spring Company of Kalamazoo, and the Barber Manufacturing Company of Anderson, Indiana. Those are the ones that are most important.

Q. Do you all quote the same price?

A. I am not always familiar with what their prices are, but we do not, as a rule.

Q. Have you any agreement to fix prices?

A. Absolutely no, sir.

Q. Have you ever had?

A. We never have had.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Where do you sell your product mainly?

A. In the Central States, I would say, is our best field.

Q. How far east?

A. We sell some in New York State, around Binghamton, in that territory, in that district.

Q. How far west?

A. To Denver.

Q. How far north and south?

A. From Michigan to Texas, New Orleans.

Q. You sell pretty much all over the whole country?

A. We sell pretty much all over the whole country, except in the extreme east. We have sold some here in New York, but not often.

Q. You say you have had entire charge of the purchases for the last five years?

A. Yes.

Q. What was your position with the company before that?

A. Well, my position was assistant to my father, I would say.

Q. What was your father's position?

A. My father at that time—I was going to say it was not a corporation—my father was president and also general manager of both branches of our business.

Q. Take six years ago; that is, 1907; what tonnage in hoops did your company buy that year?

A. At that period we bought no hoops at all.

Q. Well, what tonnage did you buy then in spring wire?

A. About 250 to 300 tons; it might have varied a little bit from that.

Q. What was the money value of that?

A. Well, it varied; as a rule I would say that stuff was worth in the neighborhood of $40 a ton.

Q. Now, take the year 1906: what tonnage did your company buy in steel wire?

A. Just about the same.

Q. That is to say, about 250 to 300 tons?

A. 250 to 300 tons. We did a very conservative business at that time in this particular line, and it was not until the last five years that we have increased that department of our business.

Q. In 1906 from whom did you buy that 250 to 300 tons?

A. I cannot recall all the companies, but I do recall that we bought some of that tonnage from the Youngstown Sheet & Tube Company, and some from the American Steel & Wire Company, and I have no doubt that we made purchases during that year from Roebling and some of these other companies.

Q. But you only remember those two?

A. I remember distinctly those two.

Q. Now, what tonnage did you buy that year from the American Steel & Wire Company?

A. I would say about 80 per cent. of it.

Q. Take the year 1907: what percentage did you buy from the American Steel & Wire Company?

A. I am speaking of wire now, not hoops.

Q. That is what we are talking about all the time.

A. Just about the same amount.

Q. And during 1908?

A. It has varied throughout the years just about that much. Our business is classed in two businesses; we have two classes of springs, and of the higher grade wire we purchase from the American Steel & Wire Company, as a rule.

Q. That is about 80 per cent. of your requirements?

A. Yes.

Q. And that has been so for the last ten years?

A. Yes, since the period when they started to make carbon wire such as we use.

Q. Of that class of wire, such as you bought from the American Steel & Wire Company, did you buy all your requirements from them of that class?

A. No; oftentimes we bought from John A. Roebling; that concern I remember distinctly having bought from.

Q. That class of wire which was 80 per cent. of all of your wire purchases, how much did you buy in any one year that you can state, of John A. Roebling?

A. Well, in any one year, that I can recall, I never bought more than one or two cars; probably 50 tons.

Q. From John A. Roebling?

A. Yes.

Q. Did you buy that class of wire from anybody else except the American Steel & Wire Company and John A. Roebling?

A. No.

Q. Now, of that particular class of wire in 1907 from whom did you take quotations on your purchases, that you can recall now?

A. The Page Woven Wire Fence Company, I think about that period, although I am not absolutely certain that that was the time they started in the wire market, but it seems about that time to me now. Prior to the time I took hold of it exclusively, the Page Company, Roebling, and the American Steel & Wire Company.

Q. Were they the only three that made that kind at that time?

A. To my knowledge they were.

Q. So, until the Page Company came in on that particular kind of wire, you only took quotations from the American Steel & Wire Company and Roebling, at the particular times you have mentioned?

A. That is correct.

Q. So that practically, then, with those qualifications you have bought 80 per cent. of your wire requirements from the American Steel & Wire Company without taking quotations from anybody else?

A. No.

Q. I say, subject to those limitations?

A. Subject to those limitations, yes.

Q. And to make it perfectly plain——

A. (Interposing) You are speaking of the higher grade wire now?

Q. I am speaking of the higher grade wire.

A. I understand.

Q. Which was 80 per cent. of your requirements?

A. Yes.

Q. And which you bought entirely from the American Steel & Wire Company up to the time that Page began?

A. Yes.

Q. With the exception of the car or two carloads that you bought from Roebling; that is what I mean.

A. That is correct.

Q. You do not know when Page began?

A. Not the exact date, I do not.

Q. Besides this grade of wire what kind of wire do you buy?

A. A grade which we term the Acme grade, which is a lower grade than the grade referred to above.

Q. Did you buy that throughout those ten years, that Acme?

A. Yes.

Q. Take the year 1913, what tonnage have you bought of that Acme?

A. About 200 tons, I would say, without being confined to exact figures.

Q. How would that run on back say for ten years; would there be a decreasing amount?

A. In a decreasing proportion to our other tonnage, do you mean?

Q. No; would it be decreasing from 200 tons?

A. Yes.

Q. Back five years about what was it?

A. I guess approximately 50 to 75 tons.

Q. Now, in the year 1913, from whom have you bought of this Acme wire?

A. From the Youngstown Sheet & Tube Company and the American Steel & Wire Company.

Q. What proportion of all of your wire requirements for 1913 have you bought from the American Steel & Wire Company?

A. About 80 per cent.—75 to 85 per cent. I am not confining it to that.

Q. I was taking this 80 per cent. of the whole represented by the higher kind, and then I understood you to say that you bought a portion of those 200 tons from the American Steel & Wire Company?

Q. You say that might raise it to 85 per cent.?

A. Yes; it might.

Q. Would that be the same for 1912, approximately?

A. Yes.

Q. And 1911?

A. Yes, although our requirements in 1911 had not been so large as they were in 1912 and 1913.

Q. Because you have had an increase—a gradual increase. Take the Acme wire: do you know from whom you bought in 1906?

A. As I can recollect, we bought from the Youngstown Sheet & Tube Company and the American Steel & Wire Company.

Q. Do you remember what concerns you solicited quotations from on that kind of wire for the purchases you made that year?

A. Outside of those two I cannot recall.

Q. You do not remember what the quotations were?

A. At that time, no; I do not.

Q. How about 1905? Do you know the amount of purchases for that year?

A. Do you mean the price?

Q. No; the amount you got, about, of Acme wire.

A. Not exactly; I cannot tell. But in 1905 about 50 to 75 tons, I would say.

Q. Did you get that from the Youngstown and the American Steel & Wire Company also?

A. Yes.

Q. Do you know anybody else you got quotations from except from them?

A. No.

Q. How about 1904?

A. I think the same condition would prevail at that period.

Q. That is as far back as you go, is it?

A. Just about, yes.

Q. Take 1907: from whom did you buy this Acme wire?

A. From the Youngstown Sheet & Tube Company and the American Steel & Wire Company.

Q. Would that be the same for 1908?

A. Yes.

Q. For 1909 and 1910?

A. Yes.

Q. Do you remember anybody else you took quotations from on any purchases of that wire, other than those?

A. That particular grade, no.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

(Whereupon an adjournment was taken until to-morrow, Tuesday, December 2, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-SECOND DAY.

EMPIRE BUILDING,
71 Broadway, New York City.

Tuesday, December 2, 1913.

Before Special Examiner HENRY P. BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. BOLLING.

PHILANDER L. CARTER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you live, Mr. Carter?

A. Jackson, Michigan.

Q. And what is your business?

A. Manufacturer of woven wire fence.

Q. What is the name of your company?

A. Jackson Fence Company.

Q. What is your official connection with that company?

A. I am president of the company.

Q. Will you state what that company manufactures?

A. It manufactures woven wire fence and fence stretchers, the principal products.

Q. Do you manufacture anything in the line of poultry netting?

A. We manufacture a poultry fence that comes in competition with the so-called poultry netting.

Q. How many classes of woven wire fence, or how many weights do you make?

A. Four. We make what is known as an extra heavy No. 9 fence; medium heavy No. 11 fence, and a standard No. 12 fence, and two weights of poultry fence.

Q. When was the Jackson Fence Company organized?

A. November 15, 1905.

Q. When did you get your plant in shape to do business?

A. The early part of 1906.

Q. Did you build your plant or buy it?

A. We built and developed the machines.

Q. Have you certain peculiar machinery that you use in manufacturing fence?

A. Yes, sir. They are machines that are covered by patents, and which were developed by ourselves to manufacture this particular type of fence.

Q. Do you build the machines, as well as make the fence?

A. Yes, sir.

Q. And where do you build the machines? There at Jackson?

A. At Jackson.

Q. Are those machines used in any other factories than yours?

A. This type of fence is built by, I should say, oh, five or six different manufacturers.

Q. Where are they located?

A. At Adrian, at Cleveland, Crawfordsville, Indiana, and at Warsaw, Ohio. I think there is one plant down there.

Q. Are those plants controlled by you?

A. No.

Q. Or are they owned by other parties?

A. Oh, other parties.

Q. Are they separate from each other?

A. Yes, sir.

Q. And do they operate under your patents?

A. No, sir.

Q. Do they use your machines?

A. No, sir.

Q. I thought you said that type of fence was used——

A. (Interposing) Well, this particular type of fence, there

have been several machines that have been developed for the manufacture of this particular type of fence.

Q. Yes.

A. Our machines as developed by us are for our exclusive use.

Q. I see; but the peculiar kind of fence, you mean?

A. Yes.

Q. Is made by other machines?

A. Yes, of a similar nature.

Q. Yes.

A. The tie may vary.

Q. Are those classes of fence that are made by these other people and yours somewhat different in the tie and mesh from the fence made by the American Steel & Wire Company?

A. Yes, sir.

Q. Are they sold in the market in competition with the Steel & Wire Company?

A. Yes, sir.

Q. What was your output the first year you were doing business?

A. Approximately 1,500 tons.

Q. What will be your output during the present year?

A. Approximately 10,000 tons.

Q. Has the business increased gradually or irregularly?

A. It has increased gradually from year to year.

Q. Where do you now and where have you bought the wire from which you have made your fence?

A. We have bought our entire requirements of the American Steel & Wire Company.

Q. From the beginning?

A. From the beginning, yes, sir.

Q. In what way do you make those purchases?

A. Why, usually by contracts for periods of six months, after ascertaining the market conditions and getting quotations from others.

Q. That is, do you mean for six months your contracts provide a maximum and minimum tonnage—an estimate to cover your requirements?

A. We generally estimate to cover our probable requirements for that period, and buy accordingly.

Q. And buy a certain tonnage?

A. Yes.

Q. You say that you make those contracts after securing quotations. How many different concerns are there that you secure quotations from?

A. The number, or to name them?

Q. Well, about. I do not care; just about?

A. I should say four.

Q. Four?

A. Yes; four or five.

Q. What are they?

A. There is the Pittsburgh Steel Company; the Youngstown Sheet & Tube Company, the Cambria Steel Company, and the Jones & Laughlin Steel Company.

Q. You say it is your practice to secure quotations before entering into contracts?

A. Yes, sir.

Q. How are those quotations that you secure from different manufacturers? Have they been uniform or varying?

A. Varying.

Q. What efforts, if any, have been made, by solicitation or otherwise, by these other wire manufacturers, to secure your business?

A. Why, we are solicited continuously from the different wire companies.

Q. Well, what form does that solicitation take?

A. Why, it has been very aggressive.

Q. What sort of claims or propositions do they make to you?

A. Why, sometimes in soliciting our business they have asked us to place with them possibly 500 or 1,000 tons, and in taking the matter up, they have finally asked us for a bid upon that material,—asked us what we would offer for it.

Q. They also quote you prices?

A. Yes, sir; quoted us prices, and when it has not appealed to us particularly, they have simply said, "Why, give us a bid on it."

Q. Now, have the prices that the American Steel & Wire Company has quoted to you always been lower than the other people?

A. No, sir.

Q. How much higher have they been at times?

A. At times it has been a dollar a ton higher.

Q. Has the Steel & Wire Company at times met the lower quotations made to you?

A. Why, yes, at some periods I have no doubt that they have met that price.

Q. That is, they have come down on their original offers?

A. No; I do not remember an instance where they have.

Q. But they have sold you at a price that was satisfactory to you, have they?

A. Entirely; yes, sir.

Q. Although not as low as you could obtain from others?

A. No, sir.

Q. Why is it that you have been willing to place your entire requirements with the American Steel & Wire Company, even when you could have secured a lower price from their competitors?

A. Because we have appreciated their ability to take care of us and to give us the service.

Q. How far ahead do you keep stock on hand?

A. During the rush season our stock would not last to exceed two weeks; our stock of fence.

Q. Then you have material coming right along, all the time?

A. Continuously. We anticipate our requirements, and have it shipped so many cars per week.

Q. During all these years from 1906 to the present time what has been the character of the service that has been given you by the American Steel & Wire Company?

A. It has been exceptional. Even during the rush seasons I do not recall any periods where we have been shut down on account of lack of material. We have been able to depend absolutely upon our requirements, which has allowed us to run continuously and economically, which is a big factor in the manufacture of fence.

Q. What saving, if any, do you make by carrying only a small stock, lasting you ten days or two weeks?

A. It does not necessitate tying up a large amount of money.

Q. How has the quality of wire furnished you by the American Steel & Wire Company compared from year to year?

A. It has been better; the quality has been better.

Q. It has been improving all the time, you mean?

A. It has been improving all the time.

Q. From what mills of the American Steel & Wire Company do you get your supply, as a rule?

A. The larger part of it from Joliet, although we have received materials from Waukegan, De Kalb and some from the Cleveland districts.

Q. Which way do you find the most regular train service?

A. From the Joliet mills.

Q. You are located on the Michigan Central, are you not?

A. Yes.

Q. And that makes connection with what line from Joliet?

A. The E. J. & E.

Q. Has the American Steel & Wire Company at any time sought in any way to interfere with the price at which you should sell your fence?

A. No, sir.

Q. Have you been in any agreement or understanding with the American Steel & Wire Company or these larger fence makers as to the price at which you should sell your fence?

A. No, sir.

Q. You have fixed your own price?

A. We have made our own price.

Q. Through what states do you distribute the Jackson fence?

A. Directly, Michigan, Indiana, Ohio, New York, Illinois, Wisconsin, Minnesota and part of Iowa. Through jobbers, the South, Southwest and the Middle West.

Q. What woven wire fence manufactured by the American

Steel & Wire Company is there that is in competition with yours? You spoke of some of it being sold in competition with yours. What is the trade name of their fence?

Q. Any other?

A. The American fence.

A. They have the Ellwood, the Royal and the National. Those are the principal types.

Q. Which has the largest sale of those?

A. The American.

Q. How does your fence sell in the market in comparison with the American fence? Which sells higher?

A. Our fence sells higher.

Q. About how much higher—giving the minimum and maximum range?

A. Varying from a cent and a half to two and two and a half cents a rod.

Q. How does your fence sell as compared with that of other fence manufacturers—outside people?

A. Outside of the American?

Q. Yes.

A. I believe our fence is the highest priced fence on the market.

Q. What other fences are there that are sold in competition with you that sell at prices, we will say, between the prices of the American and yours?

A. There would be the Peerless.

Q. Where is that made?

A. Adrian, Michigan; the Adrian Fence Company, of Adrian, Michigan; the Michigan Fence Company, of Adrian, Michigan; the Superior Fence Company, at Cleveland; the Frost Fence Company, of Cleveland; the Warsaw Fence Company, of Warsaw, Ohio; the Dwiggins Fence Company, at Anderson, Indiana. I think those are the principal ones.

Q. They would be in between in price, would they—between your prices and those of the American?

A. Those particular types of fence would be approximately the same as ours.

Q. About the same as yours?

A. Approximately the same as ours. There might be some variations.

Q. And are those different makes of fence sold throughout your territory?

A. Yes, sir.

Q. In competition with you and with the American?

A. In competition with ourselves and with the American.

Q. What about the fence made by the Youngstown Sheet & Tube Company?

A. They build a fence similar to our type; practically the same.

Q. And about how does that sell in comparison with yours?

A. At the present time that is selling about the same as ours.

Q. What about the Kokomo fence?

A. That type of fence sells about the same as the American.

Q. Is that a considerable company—the Kokomo Company?

A. I believe it is.

Q. You meet their fence in competition in your market do you not?

A. Oh, yes.

Q. Where does the Peerless Fence Company get its supply of wire?

A. It is my understanding that they buy——

Mr. Dickinson: I object to any hearsay.

The Witness: They buy their entire requirements from J. & L.

By Mr. Severance:

Q. That is, from Jones & Laughlin?

A. From Jones & Laughlin.

Q. Can you very briefly state the character of your fence, how it is made and how it differs from the American fence, for instance?

Mr. Dickinson: We object to that as irrelevant.

By Mr. Severance:

Q. Proceed.

A. Our type of fence is what is known as square mesh staple-tie fence, made up of a continuous stay wire running from top to bottom, fastened at the intersection with a lock or tie. The American fence is what is known as the soft drawn twisted stay fence, having the stay in as many pieces as there are panels in the fence.

Q. What is the particular virtue that is claimed by you for your fence, and what is the particular claim made by the American Steel & Wire Company for the American fence, growing out of the differences in make?

Mr. Dickinson: Objected to as irrelevant.

The Witness: With our type of fence we consider that it will stand up better on the post and not sag or bag. The stays being continuous support it in an upright position. The American type of fence, with the soft drawn cut stay, has a tendency to sag or bag. They of course claim that with their construction there is an advantage in so far as with any pressure brought to bear upon the top or bottom the fence hinges at the joint and will come back to place.

By Mr. Severance:

Q. Are there a number of different makes of fence of the general character of the American?

A. Yes.

Q. Who makes those fences?

A. The Youngstown Sheet & Tube Company, the Cambria Steel Company, the Kokomo Wire & Nail Company, the Dillon-Griswold Wire Company.

Q. Where are they located?

A. Sterling, Illinois. Jones & Laughlin started to put a product on the market similar to the American, but I do not know whether they have completed that or not.

Q. You mentioned among others the Michigan Wire Fence Company of Adrian?

A. Yes.

Q. Where do they get their wire?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: The Youngstown Sheet & Tube Company and the Pittsburgh Steel Company.

MR. DICKINSON: Just to avoid cross examination, I would like to know whether the witness is answering from hearsay on that. I do not want to go into cross examination on it.

By MR. SEVERANCE:

Q. Do you know where they get it?

A. The Michigan?

Q. Yes.

A. Yes, sir.

MR. DICKINSON: Let him say how he knows.

By MR. SEVERANCE:

Q. Mr. Dickinson wants to know how you know it, Mr. Carter.

A. Mr. Tobias, the manager of the company, told me so.

MR. DICKINSON: I object to his answer as hearsay and incompetent.

MR. SEVERANCE: Is that the source of your information?

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. To what class of persons do you and the other manufacturers of fence sell fence throughout this territory that you mention?

A. We sell to the hardware and implement trade.

Q. Do you sell the wholesalers or retailers or both?

A. We sell to both.

Q. In what way do you push the sale of your fence?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: We work directly through travelers.

By MR. SEVERANCE:

Q. Through traveling men?

A. Traveling men.

Q. And do you use any literature in pushing the sale of your fence?

A. Yes; we circularize the territory.

Q. How do these other fence manufacturers, including the American Steel & Wire Company, push their trade?

MR. DICKINSON: Objected to as irrelevant.

THE WITNESS: Through travelers.

By MR. SEVERANCE:

Q. How is the competition between different manufacturers in this territory? Is it active or passive in character?

A. Very active.

MR. DICKINSON: What manufacturers do you mean; of fence or wire?

MR. SEVERANCE: Fence; that is what I am speaking about.

By MR. SEVERANCE:

Q. The thing you have to sell?

A. Yes, very active.

Q. And has it been during all the time you have been in the business?

A. Yes.

Q. I think I asked you before if there had been any price agreement among the manufacturers.

A. Yes, you did.

Q. And there has not been?

A. No.

MR. DICKINSON: I do not think he said there had not been; he said he had not been a party to them.

By MR. SEVERANCE:

Q. Have there ever been, so far as you know?

A. No.

MR. DICKINSON: You are not undertaking to answer except so far as you know, from your own knowledge?

THE WITNESS: No.

By MR. SEVERANCE:

Q. You have not been a party to any, and no such agreements have ever been brought to your knowledge, have they?

A. No, sir.

MR. SEVERANCE: That is all.

CROSS EXAMINATION.

By Mr. Dickinson:

Q. You spoke of getting quotations from the Pittsburgh Steel Company, the Youngstown Sheet & Tube Company, the Cambria Steel Company, Jones & Laughlin and the American Steel & Wire Company. Over what period did you mean to say that you had gotten quotations, when you made your purchases of wire, from those companies?

A. Ever since we have been in business, covering a period of approximately seven years.

Q. You say approximately seven years; I would like to know; you know how long you have been in business.

A. Well, we have been actually engaged in the manufacture of fence since the early part of 1906.

Q. So you mean to say, then, that since the early part of 1906 down to the present time is the period that you mean to cover by that statement?

A. Yes.

Q. You are confident of that, are you?

A. With one exception; the Cambria Steel Company have not been producing wire, I do not think, for that whole period.

Q. How long have they been producing?

A. They have been producing, I think, about three years.

Q. What kind of wire do you purchase, the sizes?

A. Sizes 7, 9, 10, 11, 13 and 14.

Q. Your relations have been very close with the American Steel & Wire Company, have they not, from the fact that you have been purchasing from them, and no one else, throughout the whole period of your operations?

A. Yes, sir.

Q. And you have bought from them, notwithstanding the fact that other people have quoted you a lower price at times?

A. Yes, sir.

Q. I suppose other manufacturers soon found out how closely you dealt with the American Steel & Wire Company, and the constancy of your dealings with them, did they not?

A. Yes, sir.

Q. Now, take the year 1908; do you recall now, as a mat-

ter of memory, what concerns you solicited for bids that year, and how often you solicited them?

A. No, I could not.

Q. Or the prices?

A. I do not remember.

Q. Well, it largely became a matter with you of just getting the kind of wire that you wanted, supplied in the way you wanted, and dealing continuously with one manufacturer, did it not?

A. Well, we considered the service largely in purchasing.

Q. And you never did break away from them?

A. No, sir; we bought our exclusive requirements from them.

Q. Is your fence a patented fence?

A. Yes, sir.

Q. And you claim superiority for that?

A. Yes, sir.

Q. There are other patented fences?

A. Yes, sir.

Q. And there are differences?

A. Yes.

Q. And while they may be used, some of them, for the same purpose, you have gotten a higher price, you say?

A. Yes, sir.

Q. That is, I suppose, because of the peculiar qualities of your fence, an appreciation that the purchaser has put upon it for those qualities?

A. Yes, sir.

Q. Now, take 1909: can you now state, as a matter of memory, that you recall getting quotations during that year, at the time that you were making purchases from the American Steel & Wire Company?

A. 1909?

Q. Yes.

A. I do not recall the exact market.

Q. Well, do you recall from whom you got bids in any year, other than the American Steel & Wire Company, and the times at which you got them, and how they varied?

A. Why, we were solicited continuously from those dif-

ferent concerns. I do not remember. I could not say the exact concerns.

Q. And you did not pay much attention to the solicitation?

A. Yes, sir.

Q. But you did not pay enough attention to it to break away from the American Steel & Wire Company?

A. Why, I did not consider it was to our interest to do so.

Q. Do you bear in mind at any particular time, or on any particular contract the difference in prices that were offered to you by any of these manufacturers, for any particular year?

A. At many periods I can remember distinctly the variation in quotations of a dollar a ton lower by some of the several concerns mentioned.

Q. Well, can you remember any such period for 1909, and, if so, what period was it, and who was it that quoted a dollar lower, and when was it?

A. I could not recall now.

Q. Can you give any such instance for 1910, 1911 or 1912?

A. Not on exact periods.

Q. Can you give any approximate period in either one of those years, and state who made the quotation, and about what time they made it, and on what quantity of wire?

A. I could not give you any exact dates on that.

Q. Can you give it approximately?

A. Why, I think it was during the years that you have mentioned, when we have received quotations of a dollar a ton less.

Q. Now, what year do you think that you remember, if you do remember, that you got a quotation of a dollar a ton less, and who made it?

A. Well, as I say, it has been during the entire period.

Q. Do you mean to say that throughout that time that you now remember that some of these other manufacturers bid a dollar less, and if so, who bid it and when was it, as near as you can recollect it?

A. Why, we received quotations from the Pittsburgh Steel Company, and from the Youngstown Sheet & Tube Company; from the J. & L., and from the Cambria, all of which I re-

member distinctly as being a dollar a ton less than we were paying.

Q. Now, what year? 1909? Do you remember that?

A. Why, during that period of 1909 and 1910 and 1911, and right through the entire period.

Q. They were always less, were they?

A. Yes.

Q. Than the American Steel & Wire Company?

A. Yes, sir.

Q. And they were a dollar less, were they?

A. A dollar less.

Q. All of them?

A. Why, that would vary somewhat; not all of them.

Q. But generally it was?

A. About a dollar a ton less.

Q. Throughout that time?

A. That we could buy of these other concerns.

Q. Yes. I mean throughout that time?

A. Yes.

Q. And notwithstanding that, you bought from the other company?

A. Yes, sir.

MR. DICKINSON: That is all.

MR. SEVERANCE: That is all, Mr. Carter.

MR. LINDABURY: Mr. Scobie.

WILLIAM H. SCOBIE

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Scobie, where do you live?

A. Wyoming, Ohio, my residence; a suburb of Cincinnati.

Q. Are you connected with the Philip Carey Manufacturing Company?

A. I am.

Q. What relation do you sustain to that?

A. Purchasing agent.

Q. What is the business of that company?

A. The manufacture of roofing and pipe covering and asbestos products.

Q. How long have you been the purchasing agent of that company?

A. About seven years.

Q. Does that company purchase steel products?

A. It does.

Q. For use in its manufacturing business?

A. In connection with its manufactured material.

Q. For use in connection with it?

A. Yes, sir; for use in connection with it.

Q. What quantity of steel products does it annually use?

A. Approximately 25 cars.

Q. A year?

A. A year.

Q. That would be about how many tons?

A. In the neighborhood of 500 tons.

Q. What products are included in these purchases?

A. Sheets, nails and wire.

Q. What kind of wire?

A. Ordinary plain and galvanized wire; annealed wire, to a limited extent.

Q. Are the nails used the ordinary nail, or are they a special nail?

A. They are a special nail.

Q. For——

A. Applying roofing.

Q. Applying the asbestos roofing?

A. Not asbestos; the roofing. It is not an asbestos roofing; it is a composition roofing.

Q. Do you purchase any of your wire materials from the American Steel & Wire Company?

A. We do.

Q. And about what percentage of your requirements in the wire line are purchased from that company?

A. From two-thirds to three-quarters, approximately.

Q. And has that been the case ever since you have been the purchasing agent for your company, or has the amount increased or decreased?

A. That would be the general average; increasing in some years, and decreasing in others.

Q. Do you purchase from time to time for immediate consumption, or purchase on term contracts, or both?

A. Both.

Q. What percentage of your purchases are made on term contracts?

A. Speaking of the general line?

Q. I am speaking of wire now.

A. Wire?

Q. All wire products.

A. Including nails?

Q. Yes. I suppose they are bought together, are they not? Are the nails made by the same concerns who make the wire that you buy?

A. Yes; very largely.

Q. And they are bought usually together, are they?

A. No; the nails being the larger item, the wire being the smaller item——

Q. You may answer separately. Take nails, then: what percentage of the nails are bought on contract for future delivery—term contracts?

A. Three-quarters of the nails are bought on contract for future delivery.

Q. Now, what percentage of your wire is bought on contract for future delivery?

A. A small percentage.

Q. Do you obtain, before purchasing these wire products, quotations from different manufacturers?

MR. DICKINSON: Do you mean nails as well as wire?

MR. LINDABURY: Yes.

THE WITNESS: Yes.

By MR. LINDABURY:

Q. Is that true both of nails and wire?

A. Of both.

Q. And of both kinds of wire, plain and galvanized?

A. Both.

Q. Do you usually buy the two kinds of wire together?

A. Not necessarily. We do not, as a rule.

Q. They are manufactured by the same people ordinarily, are they not?

A. Yes.

Q. From how many concerns do you invite quotations when you are in the market for the purchase of wire goods, including nails?

A. From four to six concerns.

Q. Will you name them?

A. Jones & Laughlin, the Youngstown Sheet & Tube Company, the Cambria and the American Steel & Wire Company.

Q. Has that been the practice of your company during the whole time you have been its purchasing agent?

A. To invite competition from all manufacturers.

Q. And from about that number?

A. Yes.

Q. Have you invited competition from the same concerns during this whole period of years, or do they vary sometimes?

A. Varying only when we know them to be manufacturing or not manufacturing the particular material we are interested in.

Q. Who makes these special nails? Do all these concerns make them or only some of them?

A. The concerns that I have named are manufacturers of the special nails.

Q. They all make them?

A. They all make them.

Q. Do they all make wire also?

A. I think they do.

Q. Plain and galvanized?

A. I think they do.

Q. Do the quotations that you receive on nails vary or are they uniform?

A. They vary.

Q. Do two of them ever quote the same price?

A. Not as a rule.

Q. And if two of them do quote the same price at one time, do they ordinarily agree on the next quotation—the same two, I mean?

A. No, that would not be true.

Q. Is the highest bidder at one time ever the lowest bidder at another time?

A. I think truthfully I can say that they are.

Q. And the lowest at one time is sometimes the highest at another time?

A. That is my recollection.

Q. Do you remember any occasion when all of them have quoted the same price?

A. I do not.

Q. Have you tried to think whether that has ever occurred or not?

A. I am speaking from memory, and I still make the same answer, that I do not recall when they have all been the same price.

Q. Do you remember when more than two of them have quoted the same price?

A. My recollection is that it is a common experience. I cannot recall any particular time, but I am making the general statement that there is a variation.

Q. I think you did not quite catch the question. You have testified that at times the quotations of two would agree?

A. Yes.

Q. Now I ask you if you recall any time when the quotations of as many as three have agreed?

A. I certainly did not understand the question. I do not.

Q. You do not recall when any more than two ever agreed?

A. No.

Q. I believe I limited that question to nails. What would be your answer to similar inquiries with respect to wire, plain or galvanized?

A. I might add that our consumption of wire is so small that the same thing holds true, although probably not from the same sources.

Q. Have the quotations for whatever you have bought varied as to wire?

A. They have.

Q. And about the same as you have told us with regard to nails?

A. The same variation.

Q. You also buy sheets?

A. Yes.

Q. Do you buy those on a competitive basis?

A. We do.

Q. Do you invite quotations?

A. We do.

Q. From whom?

A. From the American Sheet & Tin Plate Company, Jones & Laughlin and the Youngstown Sheet & Tube Company.

Q. Do you ever buy or obtain quotations from the Coatesville manufacturers, Lukens and—who is the other? Worth?

MR. COLTON: Worth. They manufacture plates, though.

THE WITNESS: Plates, yes.

By MR. LINDABURY:

Q. The plate is a large sheet, is it not?

A. A thick sheet.

Q. Do they not manufacture sheets also as well as plates?

A. I do not know that they manufacture the very light gauges, such as we are interested in.

Q. Mr. Colton knows, and he says they do not.

A. I do not think they do.

Q. Have the quotations that you obtained on sheets from the concerns that you named been uniform or variant?

A. There has been a variation in price between a high bidder and a low bidder.

Q. Has that variation been considerable, or, I ought to say, substantial?

A. Substantial. We consider it so.

Q. Have there been times when the bids of any two of them would agree?

A. I think there have. It is my recollection that there have been such times.

Q. Has that been frequent or infrequent?

A. Frequent, probably.

Q. Do you remember any occasion when the bids of more than two agreed?

A. I do not, for the reason that there has been a variation with a limited number of competitors, in our case.

Q. Do you remember any occasion when the bids of any two bidders agreed two times in succession?

A. I don't remember such.

Q. Has it been the rule that the low bidder at one time continued to be the low bidder on successive biddings, or was the low one at one time the high one at another, and vice versa?

A. I think there has been uniformity as to high and low bidders.

Q. What is your recollection as to whether or not a concern bidding low at one time bid higher or highest at some other time?

A. Bidding low and being high or highest at another time?

Q. Yes.

A. My recollection is that that has occurred.

Q. Has there been any concern bidding on those sheets whose bids were uniformly high or uniformly low, or uniformly between the high and the low?

A. I do not recall that any bidder has placed himself in that position.

Q. Now, do your answers with regard to these sheet quotations cover the whole period that you have been purchasing agent of the company?

A. Well, the sheet quotations only cover a period of three years.

Q. Why?

A. Because we have only been using them that length of time.

Q. Has there been active competition for your trade among the different manufacturers that you have named, during the whole period that you have been purchasing agent, with respect to the wire products you have named?

A. Yes, the competition has been, I should consider, active; there has been an eagerness to secure the business.

Q. How has it been with regard to sheets during the time you have been purchasing them?

A. The same is true.

Q. You went with this company seven years ago; that would be 1906?

A. 1906 or 1907, I guess it is.

Q. Do you remember which year it was?

A. I do not distinctly; I made the statement that it was seven years ago, which I think is correct.

Q. Well, that might be 1906 or 1907; that is, the end of one or the beginning of the other?

A. Yes; it was the close of 1906, as I recall, seven years ago.

Q. What was your employment before you went with this company?

A. I was assistant purchasing agent of the Big Four Railway.

Q. For how long a time?

A. For at least seven years prior to my engagement with this concern.

Q. What is the Big Four Railroad?

A. The Big Four is the Cleveland, Cincinnati, Chicago & St. Louis, a line extending from Cleveland west to Cincinnati.

Q. How many miles of trackage has it?

A. My recollection is, something like 2,500, when I was with it, and I suppose it is now about the same.

Q. Did you, when in that position, have to do with the purchases of supplies for that railroad?

A. I did.

Q. What of their steel supplies were purchased through your department?

A. The general line of steel supplies, outside of what might be considered the very heavy end, such as rails and bridges.

Q. That is, you are excepting them?

A. I am excepting them; the general line except the heavy end.

Q. Consisting of rails and bridges?

A. Yes.

Q. Well, tell us what were included in that line of purchases.

A. On the steel and iron lines, such items as——

MR. DICKINSON: Do you want to go into iron?

THE WITNESS: Well, steel; bolts, nuts, bars, plates and tubes; they are probably the principal items.

By MR. LINDABURY:

Q. About what tonnage was annually purchased through your department?

A. That tonnage was substantial; I should say it approximated 50,000 tons per year.

Q. Was that 50,000 tons made up entirely of the steel articles you have named, or were there other articles included?

A. There were other articles included.

Q. You might name some others, if you think of them.

A. Well, forgings; that I recall as being part of that substantial tonnage.

Q. Without regard to the articles you named, I understand your estimate to be 50,000 tons per year of steel products?

A. That is my estimate; purely an estimate.

Q. That is what I understand. You have no figures?

A. No; none whatever.

Q. And it is a matter of memory with you?

A. Memory.

Q. Now, in practice, how do you go about making those purchases?

A. We invite bids from all manufacturers in the particular lines, especially those within a reasonable radius of consuming points.

Q. Now, to take up the different articles; you mentioned plates, did you not?

A. Plates.

Q. From whom did you invite quotations on plates, as you recall?

A. My recollection is to the effect that we invited competition from Otis and from Carnegie and from Worth. Those I know.

Q. Was it your practice to limit your invitations to some selected number of manufacturers, or did you ordinarily include all the larger manufacturers?

A. We included all the larger reliable manufacturers that we were aware of.

Q. And is that true not only of plates, but of the other articles you mentioned?

A. It is.

Q. I think you mentioned bars as one of the articles you purchased, did you?

A. Bars, yes, sir.

Q. From whom did you invite quotations on bars?

A. We invited quotations—you are referring to manufacturers or jobbers?

Q. Well, to both.

A. To either?

Q. Yes, either. Whoever you invited quotations from.

A. Some of the names are not clearly in mind; one, principally, was a New Albany concern; the Carnegie Steel Company, Bourne-Fuller Company; the Globe Rolling Mill Company; the Bassett-Pressley Company, of Cleveland; I do not know whether they are in existence now; they were at that time.

Q. Did you invite quotations from Cambria?

A. I do not remember distinctly as to that.

Q. From Jones & Laughlin?

A. Yes; Jones & Laughlin.

Q. What about tubes? From whom did you invite quotations on tubes?

A. On tubes, from the National Tube, from Tyler, from Syracuse. I am going back into an experience I have almost forgotten. Those three, substantially.

Q. How did you ask for these quotations? Did you make out specifications and send them around?

A. We had standard specifications. You are speaking on tubes or on all this material?

Q. On all this material.

A. Standard specifications on all of these items. If not all,

I know that on bars and on tubes and on plates there were specifications.

Q. You also spoke of bolts and nuts. I suppose you bought a great many bolts and nuts?

A. Bolts and nuts are a heavy item.

Q. I imagine—I do not know anything about it, but I conjecture a railroad would need a great many bolts and nuts.

A. Yes.

Q. From whom did you get quotations on bolts and nuts?

A. From the Lake Erie Iron Company.

Q. Where are they? At Cleveland?

A. At Cleveland.

Q. I thought they must be.

MR. DICKINSON: You are speaking now altogether of steel, are you not?

MR. LINDABURY: Yes, of steel.

THE WITNESS: The Upson Nut Company, of Cleveland; the American Iron & Steel Company, at Lebanon, if I recall, is the correct concern. The Pattison Supply Company, of Cleveland.

By MR. LINDABURY:

Q. That is all you think of now, is it?

A. That is all I can recollect definitely.

Q. Did these specification sheets that you prepared and sent out, ordinarily contain a number of items in the way of different sizes or different shapes or differences in some other respects?

A. The specification sheets were separate and distinct, one sheet covering one class of material only.

Q. Well, did the sheets contain several items?

A. Well, will you allow me to illustrate?

Q. Yes. You may.

A. We will say, on boiler tubes our requirements were boiler tubes as per specification No. 1, if it happened to be specification No. 1. Understand that all these manufacturers were perfectly familiar with our sizes, and with our approximate requirements; they did not specify specifically in the majority of instances the amount.

Q. But I was wondering whether or not your specifications required separate bids on separate items; if they were itemized in any cases?

A. If we required separate bids on separate items?

Q. Of the same specification, yes, so that a concern invited to make quotations would be required to quote on several different articles separately.

A. We preferred for convenience sake to handle it separately.

Q. You mean by separate specifications?

A. By Separate specifications and on separate sheets.

Q. Well, then, did you sometimes send a number of different specifications out at the same time to the same manufacturer?

A. Yes.

Q. Now, did the quotations received in response to these invitations ordinarily agree or disagree; that is, were they ordinarily uniform or non-uniform?

A. They were not uniform, as a rule.

Q. Did it ever occur that two of them would be uniform?

A. Yes; I believe it has occurred.

Q. Do you remember it having occurred more than once; that is, that the same two would be uniform twice in succession, or more times?

A. Well, that is a difficult thing to remember; that is, the sameness of the propositions.

Q. Do you remember whether there was any concern uniformly high or uniformly low in their quotations?

A. No, I do not remember.

Q. Do you remember whether or not in some instances concerns bidding low at one time would bid high at another time, so there would be that interchange of positions in the matter of bidding?

A. I don't remember that there was uniformity in that respect.

Q. Do you remember that more than two concerns ever quoted at any particular time the same price? You have said that some times there doubtless were two whose quotations

agreed. Do you remember any occasion when more than two agreed?

A. I should say, judging from my recollection, that there was a difference in price, as a rule; that in a limited number of bidders there was not the uniformity of three out of a possible four or five.

Q. Are you able to recall any occasion when as many as three quoted the same price?

A. I am not.

Q. If a thing of that kind occurred, would you say it was usual or unusual?

MR. DICKINSON: I object to that because the witness has not said whether it did or did not occur. He has not stated that he remembers anything about it.

THE WITNESS: Really, I was so busy I would not think very much about it.

By MR. LINDABURY:

Q. Did this ordinary variation in quotations obtain in all the lines that you have referred to in which you were making purchases?

A. That is my distinct recollection.

Q. And that includes nuts?

A. Nuts and bolts.

Q. Tubes?

A. Tubes.

Q. Plates?

A. Plates.

Q. Bars?

A. Bars.

Q. Anything else? I do not recall, now, what else you mentioned?

A. I included forgings.

Q. And forgings, yes. Was or not, during the period from 1904 to the time that you severed your connection with the purchasing department of the Big Four, competition active in these various lines in which you were making purchases?

A. My recollection is that it was active.

Q. How was that activity manifested?

A. By the activity of the seller—his constant presence before the buyer.

Q. How did you receive your quotations in answer to the invitations that you sent out; always by mail?

A. Not always by mail. By mail and by personal solicitation.

Q. Was the latter method frequent?

A. It was not uncommon.

Q. How were those quotations presented?

A. They were frequently presented verbally and confirmed.

Q. When were they presented with respect to the time when the invitations were asked for?

A. When were they presented with respect to what?

Q. With respect to the time when you asked them to send in their bids.

A. Do you mean by that, was there an immediate response?

Q. Did they bring them in at the time that bids were invited, or before or after?

A. As a rule, not until after the bids were invited.

Q. I did not mean after they were sent out, but after the time fixed for presenting them. When did they bring them, with respect to the time fixed for presenting the bids?

A. Within a reasonable time after bids were requested. No time was fixed in soliciting the invitations.

Q. I see. I am anxious to find out what activity there was connected with the presentation or making of these bids after your invitation?

A. Yes. Some bids would be replied to immediately by letter; others were slow in coming in. Others would be followed up by personal visits of the manufacturer or his representative.

Q. Were different prices ever offered from those first quoted? That is, were bids ever changed for the purpose of getting the business?

A. They were.

Q. Was that infrequent?

A. It was not.

Q. Did you ever negotiate for a better price than the quoted price?

A. We did.

Q. With whom? With a selected one or many of them?

A. Depending on circumstances.

Q. Such as what—for an example?

A. As conditions which we might know prevailed at the time with regard to business, the eagerness with which others sought the business.

Q. Was that eagerness very manifest during considerable portions of the time?

MR. DICKINSON: What time do you mean, now?

MR. LINDABURY: The period between 1904 and the time he ceased his connection with the purchasing department of the Big Four.

MR. DICKINSON: And all this applies to the Big Four?

MR. LINDABURY: Oh, yes; entirely.

MR. DICKINSON: Well, I did not know.

MR. LINDABURY: I passed by the Phillips concern some time ago.

(By request of the witness the stenographer repeated the pending question as follows:)

"Q. Was that eagerness very manifest during considerable portions of the time?"

THE WITNESS: It was.

By MR. LINDABURY:

Q. How did the activity among the makers or the competition among them for the sale of their products to the Big Four, whilst you were there, compare with the activity or competition that has existed for the trade of the Philip Carey Manufacturing Company since you have been with the latter company?

MR. DICKINSON: I object to that as irrelevant.

By MR. LINDABURY:

Q. Which was the more strenuous?

A. The competition for the railroad business was more strenuous.

Q. How do you account for that?

A. The volume, I presume, would account for it. That has always been my understanding.

Q. What do you mean by that?

A. I mean the larger tonnage of business, the larger volume is with the railroad over the present concern that I am connected with.

Q. That excited keener competition?

A. That excited keener competition.

Q. Was there any time between the end of 1904 and when you left the Big Four that competition between the manufacturers in the lines of steel production that you were purchasing was not keen and active?

A. Do I recall when such a condition did not exist?

Q. That is the same thing, yes: when competition was not keen and active?

A. I do not.

Q. And did or not that activity take the form of varying quotations as to prices?

A. It did.

CROSS EXAMINATION

By Mr. Dickinson:

Q. With regard to your purchases for the Big Four and your testimony as to competition in prices, what period does your memory cover embracing the facts as to which you have testified?

A. Oh, the period of five years prior to 1906 or 1907. If October, 1906, is seven years, a period of five years prior to that.

Q. That would be about 1902?

A. Something like that.

Q. Since you left the Big Four you have been actively engaged in other business, have you?

A. I have.

Q. Have you had any occasion since that time to go over and call to memory the particular facts and details as to what transpired while you were purchasing agent for the Big Four?

A. What do you mean by that?

Q. I mean to say that you had no special reason to recall those incidents before to-day.

A. Before to-day?

Q. Yes.

A. Yes, sir.

Q. When?

A. When testimony was solicited.

Q. How long ago was that?

A. In the past month.

Q. Up to that time you had no special reason, had you, to recur to those facts and incidents?

A. No, sir.

Q. You have had a great many transactions, I presume, since then?

A. Many.

Q. Do you undertake to say—take the year 1902—that you have a distinct recollection of particular transactions, or have you only been speaking in a general way from general impression?

A. No, not a distinct recollection as to an exact date, but in a general way.

Q. For instance, taking the year 1902, do you carry in your mind the transactions at that time, and the particular bids at that time on any transactions, who made the bids, what the bids were and what the variations of them were?

A. I do not, speaking generally; answering generally your whole question.

Q. How about 1903, 1904, 1905 and 1906?

A. I could make no distinct statement with reference to any year.

Q. Could you make any statement as to prices for any of those years, and as to how they varied, and at what periods in those years they varied, or what the prices on any particular commodity were?

A. I could only make a general statement.

Q. A general statement to the effect that you have a general impression that there were varying prices?

A. General knowledge.

Q. And you do not carry in your mind what they were?

A. No, sir.

Q. Or how they varied?

A. No, sir.

Q. Or who made them?

A. Who made them, I remember.

Q. But I mean the particular ones that varied from each other.

A. No.

Q. Take plates; what kind of plates did you buy in 1902, 1903 and 1904?

A. Boiler plates, on our own specification.

Q. Any other kind except boiler plate?

A. Boiler plate and sheets. We stipulate that below a certain number.

Q. Let us confine ourselves to what are known as plates. There is a difference, is there not, between what are designated as sheets and what are known as plates?

A. Yes; I have forgotten what the dividing line is as to number, but we bought both.

Q. Did you buy tank plates, do you remember that you bought tank plates?

A. Yes.

Q. Do you know as to 1902, 1903, and 1904, the tonnage of boiler plates you bought?

A. The exact tonnage; no, sir.

Q. Can you approximate it?

A. I could not approximate it.

Q. You do not carry in your memory those figures, do you?

A. No.

Q. Do you know from whom you made purchases? That is to say, do you recall any particular transaction in the purchase of boiler plates in 1902, 1903 and 1904?

A. Answering the first part of your question, we purchased from Otis and from Carnegie in those periods, I am positive.

Q. Did you purchase from them in all those years, or sometimes from one and sometimes from others, and do you know whom you purchased from in 1903?

A. No.

Q. You could not state that?

A. No.

Q. And you could not state as to 1902 and 1904, could you?

A. I could not.

Q. Bringing it right down to the time that you quit the Big Four, could you state it as to any of those years?

A. I could not state it with definiteness as to any one year. Are you asking under the impression that those were yearly contracts?

Q. No; I am just asking if you recall as a distinct recollection that you bought from any particular concern?

A. We bought from all those concerns.

Q. That is, that you bought variously during those years from all those concerns, but I understand you, if I am correct, that you do not know what particular ones you bought from in any particular years.

A. Well, we bought from all of them over that period.

Q. Yes, but I understood from your former answers that you could not state for any particular year which one of those you bought from.

A. I see.

Q. Is that correct?

A. I could not state with definiteness as to any particular month in any particular year. My recollection is that we bought from all of them in the period of years that you are referring to.

Q. Yes, but you do not say that you bought from all of them for each one of those years?

A. Yes; that is my answer.

Q. Oh, that is your answer?

A. Yes; that is my answer, that we bought from all of these concerns, if my recollection serves me correctly.

Q. For each one of those years?

A. For each one of those years.

Q. I did not understand you that way.

A. Maybe you will get a little clearer idea if I tell you that we solicited monthly bids on these materials.

Q. Well, did you buy from everyone of them every month?

A. No, sir. You see, you are classifying it by years, while——

Q. (Interposing) I will take it up by months. You solicited monthly bids from those concerns. Some you bought from on those solicitations, and some you did not. That would continue throughout a year, would it—those solicitations?

A. The solicitations would continue; it was a continuous process.

Q. Do you know now, and can you state that you remember that in 1902 you bought from each one of those concerns?

A. Not with definiteness.

Q. Well, how about 1903?

A. No.

Q. And how down to the time that you left the Big Four?

A. No.

Q. Do you recall and carry in your mind for any one of those years the fact that some of them bid the same and then that those same two at another time bid differently? Do you carry any distinct recollection of any particular event of that sort? If so, just state what time it was and what contract it was.

A. I could not state with reference to a definite time or contract.

Q. Well, is not really what you meant to say that you did not remember any particular time when that was so or was not so?

A. I meant to state that it was the general practice, according to my recollection.

Q. What was the general practice?

A. For this variation to occur.

Q. What do you mean by "variation"? Do you mean by that that what you call a variation was when there would be some one or more out of a number of bidders that would be different from the others?

A. That it would be the practice for there to be a difference among all bidders.

Q. Do you mean to say that each would differ from all the others, or that some one would differ from the others? Would that be a variation, in your mind, or——

A. (Interposing) That if one varied from all the others?

Q. Yes.

A. No; it is when the majority would vary.

Q. Can you state any time in 1902 that you now recall that a majority of them varied from each other?

A. No definite time could I state.

Q. Well, have you any recollection about the question of those bids and the variation of bids, and whether two or more at one time bid the same, and the same two at another time would not bid the same? Do you carry any of those incidents in your mind?

A. That is the general impression that I have in my mind.

Q. Yes, but you cannot give any instance, one way or the other, can you, when they did or did not?

A. No single instance.

Q. Do you not know, as a matter of fact, that during 1902, 1903 and 1904, the bidders on tank plate were generally uniform?

A. I do not believe I do, Judge.

Q. Do you not know that on plates, down to some time in 1905—from 1902 down to 1905, the manufacturers when solicited generally bid a uniform price?

A. On plates?

Q. Yes.

A. That is not my recollection.

Q. You do not recollect one way or the other, then?

A. I do recall that there was a variation in the bids, generally speaking.

Q. What incident now do you carry in your mind that you say you do recall? What year was it? I am speaking of plates now.

A. I have not any particular instance of a year that I recall.

Q. You were asked if you remembered any occasion when more than two agreed, and I understood you to say that you did not. You do not carry in your mind any occasions where

you can now, in your mind, from memory, compare the prices that were given on any particular occasion, do you?

A. I am stating, of course, my general recollection of the period.

Q. Yes, and you said you did not remember any such occasion. You did not mean to say, did you, that there was no such occasion, but only that you do not remember it?

A. I do not remember when there was such an occasion.

Q. But you do not mean to state that there was not such an occasion?

A. I do not mean to state that there was positively no such an occasion.

Q. Now, take 1902 on plates; what companies do you now recall that you solicited for bids in that year?

A. On plates, in 1902, I could only repeat my testimony; such people as Otis. You are asking for the names, are you?

Q. I am asking those that you now remember that you got bids from that year, if you do remember.

MR. LINDABURY: I object to this testimony, as the direct examination was limited to the period since 1904. If, therefore, this inquiry is pursued, the testimony will be that of the other side.

MR. DICKINSON: Well, I know that later on you put a limitation at 1904, but I think before that you did not put that limitation on it.

MR. COLTON: His first testimony was on the whole thing, I think, Mr. Lindabury.

MR. DICKINSON: Yes; his first testimony was on the whole thing.

MR. LINDABURY: I am quite sure it was not, but my objection will go down.

MR. DICKINSON: Because just as soon as you put 1904 as the limit I made a memorandum of that, and up to that time I understood it to be general.

MR. LINDABURY: I do not think I had asked the question before on the line that you are now pursuing. You may take the testimony, however; I do not care, so long as it is not cross examination. It is your evidence.

MR. DICKINSON: I think it stands against us unless I do examine on it. Of course, I have not the time to go over it now. Read the question.

(The pending question was read by the stenographer.)

MR. DICKINSON: Now, answer that.

THE WITNESS: My recollection is Otis, Worth, Carnegie. At least that number.

By MR. DICKINSON:

Q. Do you recall that in your memory, or are you just speaking from a general impression that during that time, or during that period of years, you did solicit these people?

A. I am recalling it from memory, that during that period of time we solicited from these people.

Q. Do you remember, as a matter of fact, that they made you quotations during 1902, all of them?

A. I do not.

Q. Could you state for 1903 who made you quotations?

A. I could not.

Q. Could you state for any of those years?

A. I could not.

Q. Do you recall whether or not, during the period from 1904 up, in your soliciting bids on these various things that you bought for the Big Four, several of the quotations or the competitive bids, the first quotations given, were alike?

A. I do not.

Q. You do not recall, now, one way or the other about that, do you?

A. I do not recall that they were all alike.

Q. Do you recall that they were not all alike?

A. Definitely, no.

Q. You did not buy the rails or bridges?

A. No.

Q. Who bought those? Somebody higher up bought those, did they not?

A. Some one higher up.

Q. You spoke of purchasing bars while you were with the Big Four. Were some of these iron and some steel?

A. There were some iron and some steel.

Q. What proportion were iron?

A. I could not state with definiteness.

Q. Which was the larger—iron or steel?

A. I should think that it was about evenly divided.

Q. Now, 1904: can you now recall from whom you got bids? I do not mean from whom you solicited bids, but from whom you actually got bids on steel bars?

A. In 1904?

Q. Yes.

A. The Bourne-Fuller Company and the Globe Rolling Mill Company and the Carnegie Steel Company. Some others; I do not recall more.

Q. Do you recall, as a matter of fact, and can you state as a matter of fact, that you got bids in 1904 from each of those companies?

A. From recollection I state that we did.

Q. How about 1905?

A. I should say the same thing applied.

Q. As to those three companies?

A. At least.

Q. If you remember anybody else for 1905, just state whom you remember.

A. No others.

Q. You can not remember any others?

A. I can not recall.

Q. For 1905?

A. No.

Q. Take 1906: whom do you remember you got bids from in 1906?

A. That list.

Q. And 1907?

A. In 1907 I was not with the railroad.

Q. All your testimony with regard to the railroad, then, is as to the period anterior to the beginning of 1907, is it?

A. To the beginning of 1907, yes.

Q. And the period anterior to that?

A. Yes.

Q. Take the year 1905: what percentage in bars did you

give to the Carnegie Company and the Bourne-Fuller Company, and what to any other company or companies?

A. I could not give you an approximate estimate.

Q. Could you for 1906?

A. No.

Q. Could you for any of the years?

A. For no year.

Q. Could you as to plates, or any of these other things you bought while you were with the Big Four?

A. I could not.

Q. Coming to your present company: you say you bought sheets?

A. Yes.

Q. When was the first year you bought sheets?

A. 1911.

Q. I believe you have only bought sheets for three years. What tonnage did you buy in 1911?

A. 200 or 300 tons.

Q. In what part of the year; the first or the latter part?

A. Covering the major portion of the year.

Q. And from whom did you buy in 1911?

A. From the American Sheet & Tin Plate Company, from Jones & Laughlin, from the Wheeling Steel & Iron Company.

Q. That is all?

A. Yes.

Q. Was your tonnage divided among those three for that year?

A. There was a division of the tonnage. I could not even approximate now what it was.

Q. You have no idea what it was?

A. No.

Q. Was that a written contract for any of that?

A. Simply a definite order.

Q. Simply a definite order, made at various times through the year?

A. Made at various times, yes.

Q. And in large or comparatively small quantities?

A. Comparatively small quantities.

Q. How many orders, as near as you can give it, covered the purchases for 1911?

A. Probably three.

Q. Well, now, do you remember on any of those orders what the price was at which you awarded the contract?

A. I do not.

Q. Do you remember what the bids were?

A. I do not.

Q. Do you remember who bid on those orders, or any particular order?

A. My recollection is that all three firms bid on the business.

Q. Now, do you say that you do recall that all three bid on each one of the orders for 1911?

A. No, I do not recall that all of them bid on each one of the orders.

Q. But all of them bid at some time during 1911?

A. Yes.

Q. But you cannot tell which ones bid on any respective order?

A. Not any respective order.

Q. Take 1912: what tonnage did you buy in sheets?

A. Approximately the same tonnage.

Q. How was that bought?

A. That business was divided.

Q. Between what companies?

A. Between Jones & Laughlin and the American Sheet & Tin Plate Company.

Q. And Wheeling?

A. That is my recollection.

Q. Would the same answers be given if the same questions were asked in regard to 1912 that I asked as to 1911, as to quotations and bids?

A. With reference to the definiteness?

Q. Yes.

A. They would.

Q. Now, take 1913: what tonnage have you bought in sheets?

A. Approximately the same tonnage.

Q. From the same people?

A. The Youngstown Sheet & Tube Company included.

Q. That would be four, then, for 1913?

A. Yes.

Q. What tonnage have you bought in 1913 from the American Sheet & Tin Plate Company?

A. Probably 50 tons.

Q. Out of a total of what?

A. 200 to 250 tons.

Q. You do not know whether it is 200 or 250?

A. No, I do not definitely; I think that range would cover it.

Q. How many purchases have you made in 1913?

A. I believe we have made three purchases in 1913.

Q. You made four contracts, didn't you say?

A. No, I did not say we made four contracts.

Q. I misunderstood you; I thought you said the American Sheet & Tin Plate Company, Jones & Laughlin, the Youngstown and Wheeling.

A. You were asking for bidders.

Q. No; how many purchases have you made?

A. I think three purchases would cover it. I referred in the other answer to the bidders.

Q. Were they all made at various times?

A. Various times.

Q. Taking these various purchases, can you give now what bids were made and who made them on each of those particular purchases or on any of them?

A. Well, I remember with distinctness the Youngtown Sheet & Tube Company, the American Sheet & Tin Plate Company and Jones & Laughlin.

Q. Do you mean to say that you remember that they bid?

A. I remember that they bid.

Q. But I am asking now did they all bid on each one of those purchases, or some on one and some on another?

A. My recollection is they all bid on the purchases.

Q. Can you give the bids made by them for each one of those purchases?

A. I cannot.

Q. Have you any recollection of the prices?

A. Of the price, I have.

Q. Or how they varied from each other?

A. I have not.

Q. That is 1913 you are speaking of now?

A. This year.

Q. You stated, as I understood you, that you remembered no occasion when bids agreed two times in succession. You mean, then, that you do not carry in your mind any particular occasion when they agreed; is that so?

A. When there were two bids alike in succession?

Q. Yes.

A. That is my recollection.

Q. Do you mean to say by that that there was no such occasion, or simply that you cannot recall any such occasion?

A. That I cannot recall.

Q. And that is all you mean to say on that; is that correct?

A. That is correct.

Q. You were asked if you remembered any occasion when the bids of more than two agreed, and I understood you to say that you did not recall any such occasion. You mean by that that you do not remember any particular occasion when they agreed?

A. I do not remember any particular occasion.

Q. Do you mean to say that there was no such occasion?

A. To the best of my recollection there was not.

Q. You have said that you do not recall any; do you recall that there was no such occasion?

A. Recall when there was no such occasion? Will you state that question again.

Q. Do you mean to say that you carry in your mind bids throughout that period, so as to enable you to say that there was no time when more than two agreed?

A. Speaking from general recollection, that is my testimony.

Q. That was in respect to sheets. Take the year that you first began with sheets; can you give any occasion there where you could name all the bidders and the prices?

A. I cannot.

Q. Can you name any occasion since you bought sheets where you can give all the bidders and the prices?

A. I cannot.

Q. Can you name any occasion when you bought sheets when you can give the prices of any of the bidders?

A. I cannot.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM H. SCOBIE,

the witness under examination at the taking of recess, resumed the stand.

CROSS EXAMINATION (Continued)

By Mr. Dickinson:

Q. You stated, I believe, that you got two-thirds to three-quarters of your wire throughout that period, on a general average, from the American Steel & Wire Company. Now, what proportion of nails did you get throughout the period from 1907 up, or within the last seven years?

A. I understood we classed nails and wire products——

Q. (Interposing) So that answer covered both?

A. Yes, sir.

Q. Now, take the first year that you bought nails; from whom did you obtain quotations that year?

A. I cannot say, for the reason that all these concerns were not making them over that period.

Q. Did you obtain any from the American Steel & Wire Company in that year?

A. I think we did.

Q. Can you name any other that you know you obtained from that year?

A. I cannot with definiteness.

Q. Can you state anything definitely as to what quotations you have obtained on any particular occasion, what the variations were, if any, and what relation they bore to each other?

A. When?

Q. The first year you bought.

A. No.

Q. Take the next year; that would be six years ago. From whom did you obtain quotations on nails?

A. I cannot answer, for the same reason.

Q. From whom did you buy in that year?

A. That I cannot answer.

Q. Did you buy any that year from the American Steel & Wire Company?

A. I cannot say.

Q. Have you any recollection as to what the prices were, or the variations in prices, or the quotations that were made to you?

A. I have not a distinct recollection of the variation.

Q. Nor their relation to each other?

A. Nor their relation to each other.

Q. Take four years ago; would your answers be the same to the same questions?

A. The same.

Q. The same five years ago?

A. The same answer.

Q. It would be the same or not, would it, throughout the whole period that you have been buying nails?

A. No.

Q. What year can you give where you remember from whom you bought and what prices you bought at, and what quotations on particular purchases you got? Just name the year, if you can.

A. The present year, as an illustration.

Q. Is that the only year?

A. That I have a recollection of a part of your question.

Q .Now, what part?

A. From whom we bought.

Q. In any other year do you remember the prices at which you bought?

A. No.

Q. Do you remember the quotations that you got?

A. No.

Q. Or their relations to each other?

A. No.

Q. Would the answers be the same for all those years to the same class of questions in respect to wire?

A. Well, our wire consumption is very small—the wire products end.

Q. I want to know how it would be with respect to wire.

A. Over the same period?

Q. The same answers to the same questions?

A. That no definite answer could be given as to prices.

Q. And you cannot state for any year with whom you made contracts and the amounts you obtained, other than the present year?

A. Not other than the present year, with definiteness.

MR. DICKINSON: That is all.

REDIRECT EXAMINATION

By MR. LINDABURY:

Q. Mr. Scobie, with regard to your experience when in the purchasing department of the Big Four, Judge Dickinson has asked you about your recollection, and you have stated that you were interviewed by counsel for the defense on the subject. How long ago was that?

MR. DICKINSON: He said a month.

THE WITNESS: Within thirty days, I believe.

By MR. LINDABURY:

Q. And has that led you to try and recall, so far as you are able to, the circumstances inquired about?

A. I have not made any specific effort to recall.

Q. I know, but have you had it in mind that you were to testify on the subject, so far as your recollection would serve you?

A. Yes; I have had in mind that that would undoubtedly come up.

Q. And have you also been consulted with regard to your testimony by a representative of the Government since that time?

A. I have.

Q. How long ago was that?

A. About ten days ago.

Q. So that you knew that both sides desired you to tell what you could remember?

MR. DICKINSON: Now, about the Big Four, I do not think anybody on our side talked to him about that, and I do not think we heard of it until you began to examine him.

MR. LINDABURY: I said about his testimony. Of course, I do not know anything about what the Government's representative asked him.

By MR. LINDABURY:

Q. Now, with regard to the variation in quotations made by the different steel manufacturers, while you were receiving them for the Big Four, you made some statement with respect to your want of recollection as to the quotations and their variation or uniformity at a given time. Have you, let me ask, a definite recollection as to whether or not they were all of them ever the same? Do you recollect definitely, without regard to dates or occasions, as to whether or not they were ever at any time all alike?

A. My recollection is that they were not all alike at any time.

Q. Is that recollection distinct, without regard, I mean, to dates or subjects?

A. It is as distinct as my recollection would be on a subject that far back.

Q. Have you a distinct recollection as to whether or not a majority of them were ever uniform?

A. The same answer.

Q. You testified on direct examination on that subject?

A. Yes.

Q. I am only wanting now to know whether or not you have a definite and distinct recollection to the effect that you have just testified. I understand you have?

A. I have a distinct general recollection of that being the case.

Q. Without remembering dates or occasions?

A. Which would be impossible.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. You were questioned about some representative of the Government. Did he ask you anything about the Big Four or any purchases——

A. I do not recall that he did.

Q. Do you not recall that he did not?

A. I do not think he referred to it. My recollection is that he did not refer to it.

Q. Your recollection, now, as to the matters I asked you about is not any better than it was before adjournment when I asked you about them, is it?

A. No; I cannot say it is, with reference to specific times and places and dates.

Q. No; I am asking whether your recollection is now any better than it was this morning, before adjournment?

A. I should say no.

Q. You understood the questions that were addressed to you by me, did you not, before you answered them?

A. I think I did.

Q. Did you or not say that you recollected times when two were alike on the same bid?

A. That was my general impression; my general recollection.

Q. There were some of those times when you only had three bids, were there not?

A. I think that there were times when we had more than three bids.

Q. But were there not times when you did not have more than three bids?

A. I cannot recall that there were times when we only had three. I was quoting from recollection only.

Q. Is it not a fact that you do not carry in your mind the incidents of any one of those transactions?

A. I do not carry them clearly and distinctly in my mind with reference to specific times or specific prices.

Q. Or the relations of prices to each other?

A. Except in a general way.

Q. Just in a general way; and you cannot specify any particular one of them, can you?

A. I could not specify any particular one.

MR. DICKINSON: That is all.

By MR. LINDABURY:

Q. Do I understand your recollection is not any better now than it was before the recess, on the subjects you have testified about? I understood you to say that; am I right?

A. That my recollection is no better now than it was before recess?

Q. Yes.

A. No; it is no better.

Q. Have you not had a conference with Judge Dickinson since the recess?

A. It is true I have.

Q. That did not improve it any?

A. That did not improve my memory; no, sir.

MR. LINDABURY: That is all.

By MR. DICKINSON:

Q. You had a consultation with counsel for the defendant, too, since the recess, did you not?

A. Yes.

Q. With Mr. Lindabury?

A. Yes.

Q. You have had a conference with him since the adjournment, have you not?

A. Yes.

MR. DICKINSON: That is all.

WILLIAM O. ROGERS, JR.

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Lindabury:

Q. Where do you live?

A. Madison, New Jersey.

Q. What is your business?

A. Manufacturer of metal bedsteads.

Q. Where is that carried on?

A. Jersey City; Pacific Avenue, Jersey City.

Q. Have you a corporation or a partnership, or do you manufacture as an individual?

A. We manufacture as a corporation.

Q. What is the name of the corporation?

A. The New York Metallic Bedstead Company.

Q. What relation do you sustain to that company?

A. I am secretary and treasurer of the company.

Q. How long has that company been in existence?

A. It was organized in 1893.

Q. How long have you been its secretary and treasurer?

A. About five years.

Q. Were you connected with it before that time?

A. Yes, sir.

Q. How long?

A. I was one of the incorporators of it.

Q. Have you anything to do with the purchases?

A. I have; yes, sir.

Q. I mean the purchases of supplies for manufacturing.

A. I pass on all the contracts for supplies.

Q. Are you connected with any other concern using steel?

A. I am connected with Charles P. Rogers & Company as a member of the firm; that is a firm.

Q. Is that Rogers related to you whose name forms the title of the company?

A. He is my uncle.

Q. Where is that company in business?

A. Our salesroom is at 1416 East 33rd Street.

Q. What does that partnership manufacture?

A. They manufacture upholstery goods, springs, Davenports and bedding.

Q. How long has that company been in business?

A. Since 1855.

Q. By whom was it founded?

A. It was founded by my uncle, Charles P. Rogers.

Q. He is still living?

A. Yes; he is in his eighty-sixth year.

Q. Does that company use steel products?

A. Tubes only.

Q. What do they use tubes for?

A. For the making of wire springs.

Q. How do they make springs out of tubes?

A. We use them as a part of the sides.

Q. Were do they get their wire springs?

A. We make our wire springs; that is, we weave the springs themselves.

Q. Where do you get the wire?

A. We purchase it in the market.

Q. That is a steel product, is it not?

A. Yes, sir.

Q. That is steel wire, is it not?

A. Steel wire, yes.

Q. Have you anything to do with the purchases for that concern?

A. No, sir. That is left with our superintendent at the factory.

Q. Then you do not have anything to do with that?

A. No, sir.

Q. But you do pass upon the bids for the supplies for the Metallic Bedstead Company?

A. Yes, sir.

Q. What supplies do you buy for that company?

A. Steel angles, rounds, tubes—iron and brass tubes.

Q. What do you call rounds?

A. Round iron.

Q. You do not mean tubes, by that term?

A. No, sir.

Q. Round iron?

A. Yes.

Q. Do you buy that?

A. Yes, sir.

Q. Angles and rounds and tubes?

A. Yes, sir.

Q. What quantity of angles and rounds do you purchase a year?

A. Between 400 and 500 tons.

Q. How is it divided; what proportion is angles?

A. I think the major portion of it is. I would say 80 per cent.

Q. Do you also buy pig iron?

A. Yes.

Q. What do you do with that?

A. We melt that and use it in making the chills on an iron bedstead, and making the corners for an iron bed. It is melted.

Q. How do you make your purchases, do you obtain bids from manufacturers?

A. Yes.

Q. What percentage of your purchases, if any, are made on contracts for future delivery?

A. The major portion are made on contracts for future delivery.

Q. From whom do you invite bids for rounds and angles, assuming that you get them from the same concerns, do you?

A. We usually invite bids from certain concerns with whom we have been doing business for a number of years, the Buffalo Steel Company and the Carnegie Steel Company and the Sweet Steel Company.

Q. Where is that located?

A. Williamsport, Pennsylvania.

Q. Had you finished naming them?

A. Yes.

Q. You did not answer my question as to whether or not you buy rounds and angles together, ordinarily, or do you buy them separately?

A. We buy them separately.

Q. From the same or different concerns?

A. Different concerns.

Q. What were you answering as to, angles?

A. Angles; that is a large part of our steel.

Q. Are the quotations you receive on angles ordinarily the same, or do they ordinarily vary?

A. They generally vary.

Q. Does your answer apply to the whole of the last ten years?

A. Yes; to the best of my recollection.

Q. After getting quotations is it your custom to negotiate with the bidders for a better price or not?

A. We of course desire to buy the goods as cheap as we can, and I think we go to everyone that is in the market in selling angles.

Q. Are you waited upon from time to time by representatives of the different manufacturers?

A. By their agents.

Q. Do they quote prices to you?

A. Yes, sir.

Q. Do the prices that they quote agree or do they vary?

A. They vary.

Q. And has that been so during the whole period mentioned, ten years?

A. Yes.

Q. Have there been times when two of them would quote the same price?

A. Not that I recall.

Q. Would the one quoting the highest price at one time continuously be high?

A. No; it varied. We place our contracts with the lowest bidder, and they are not always made by the same man or by the same company, rather.

Q. Have there been occasions when one who had at one time been the highest bidder would be the lowest?

A. Yes.

Q. How have you divided your business, if you can tell,

among these concerns that you have named? I mean your business in angles.

A. Do you want me to specify the years that we have bought?

Q. If you are able to; or give the percentage.

A. In 1913; that is the present year, we placed our contract with the Sweet Steel Company. The last six months of 1912, the Sweet Steel Company. The first six months of 1912 with the Carnegie Steel Company.

Q. Before going further—I will go back to the other years—why did you so place them?

A. Going backwards?

Q. No, why did you place the contract one time with the Sweet, and at another time with the Carnegie?

A. Because they were lower; we placed it with the lowest offer we received.

Q. Going on back, take 1911.

A. In 1911 I am under the impression it was with the Buffalo Steel Company, and the year back of that, prior to that, was with the Buffalo Steel Company.

Q. Why with the Buffalo those years?

A. Because they were lowest in price.

Q. Go on.

A. I could not state beyond that.

Q. You cannot remember definitely beyond that?

A. No, it was with either one of those companies.

Q. Can you remember whether or not you gave your contract to any one of those for any number of years in succession prior to the one you last named?

A. No; I haven't any recollection of that; I do know that we always awarded the contract to the lowest bidder.

Q. And do you know whether or not that lowest bidder was generally not the one who had gotten the contract the year before?

A. I could not tell prior to the time I have testified to.

Q. Very well, I will not press you on that. Now, with regard to rounds, where did you invite, or from what source did you invite bids on rounds?

A. Well, we are rather small users of rounds, and we usually buy them by telephone communications.

Q. How about tube, do you use much?

A. We use quite a good deal, iron and brass tube, and brass covered tube.

Q. I am not interested in either brass or iron tubes. Do you buy any considerable quantity of steel tubes?

A. Yes.

Q. From whom have you obtained quotations on that?

A. We get quotations on that from the Newark Tube & Metal Company, and the Standard Tube Company; that is also in Newark. We are speaking of steel tubes?

Q. Yes.

A. And the National Tube Company; the majority of our purchases are made from the National Tube Company.

Q. Any particular reason for that?

A. Yes.

Q. Have their prices always been the lowest, or generally the lowest?

A. Not always have been the lowest, but we have given them our business because we get better results from their tubes than we do from the others.

Q. That is, quality has entered into the award?

A. Very largely. In our business we have to make a number of bends, in hospital beds, and beds of different kinds, and we find that we can bend the National tube with very much smaller percentage of loss than we can the others. It bends truer, and, as a matter of fact, we do not consider the price so much in buying steel tubes as we do the results that we obtain.

Q. Have you bought all your tubes from the National?

A. Very nearly all of them.

Q. Just what percentage? What do you mean by very nearly all?

A. I should say 85 to 90 per cent. of our tubes we buy from the National.

Q. Where have you bought the rest?

A. The Standard and the Newark.

Q. And have you gotten quotations from time to time from other concerns, notwithstanding your heavy purchases from the National?

A. We always get quotations to see if we are buying right.

Q. And how do you find the quotations, uniform or variant?

A. They vary.

Q. Has the National Tube always been lowest? I do not know but what you have answered that question.

A. I have answered that.

Q. Has the National Tube ever been lowest?

A. I could not answer that.

Q. Because I think you said your purchases are not determined so much by price as by quality?

A. Yes. It is for that reason that I cannot answer it.

Q. Has your business grown during the last ten years?

A. Yes, sir; it has increased, with the exception of this year.

MR. LINDABURY: Your witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You have been secretary and treasurer for five years of the New York Metallic Bedstead Company?

A. Yes, sir.

Q. What were your general duties as secretary and treasurer?

A. General supervision of the business.

Q. You had all departments of the business, did you, to supervise?

A. Yes, sir.

Q. Was it a pretty large business of its kind?

A. Yes, sir; it is fairly large. It is not the largest bedstead company.

Q. You had a number of departments, did you?

A. I attended to not only the placing of the contracts, but the financial part of the business.

Q. You said you passed on all contracts. What did you mean by "passed on all contracts"?

A. The superintendent collects his prices and submits them to me. I go over the matter with him, and tell him where to purchase.

Q. You said you bought at the cheapest price, did you?

A. Yes, sir; in angles.

Q. When he would get a variety of prices, if he did, at times, for angles, would he make recommendations as to purchase?

A. He would submit all the prices he got. We usually buy on six months' wants.

Q. He made no recommendations?

A. I can not say that he made no recommendations. He would state to me that he got better results from certain iron and certain tubes than he did from others.

Q. Prior to five years ago, what did you have to do with the purchases?

A. I had the power of attorney of my uncle, who is president of the company, and I represented him.

Q. In this company?

A. In this matter, yes.

Q. What were your duties then?

A. I signed the checks, and I looked over the business, as his representative.

Q. As his representative?

A. Yes.

Q. Were you there all the time, or from time to time?

A. Only from time to time.

Q. Were you a salaried officer of the company then?

A. No, sir.

Q. You were simply representing him?

A. Simply representing him.

Q. Who was secretary and treasurer five years ago?

A. Joseph Hardie.

Q. You had nothing to do with the purchases then, did you?

A. Excepting as a representative of the president.

Q. But you had a man in charge of that duty, just as you are in charge of it now, did you not?

A. Yes, but I was consulted, though.

Q. You were consulted?

A. Yes.

Q. But you had a man, prior to five years ago, who had the authority with respect to purchases that you now have?

A. No, sir; he had not the same authority.

Q. What did he have? He was charged with the duty of making purchases, was he not?

A. He had to submit his recommendations to the president of the company, Mr. Charles P. Rogers, or the president's representative, whom I was at that time.

Q. Do you now submit your recommendations to the president of the company?

A. No, sir; my uncle leaves the matter entirely in my hands.

Q. He leaves the matter entirely in your hands?

A. Yes.

Q. How much of your time did you spend there prior to five years ago?

A. I suppose one or two days a week, or part of the day; I do not know that it was the entire day.

Q. Part of the day, one or two days in a week?

A. Yes.

Q. During that time could they not buy anything without your knowing it?

A. Not on contracts.

Q. Not on contracts?

A. No.

Q. But on other purchases?

A. For immediate wants, yes.

Q. They went ahead, then, and bought on other purchases, without always referring it to you?

A. Yes.

Q. Do you know now what per cent. of purchases which were non-contract purchases were submitted to you for the period five years back of the last five?

A. That were not submitted to me?

Q. Yes.

A. A very small percentage; only for immediate wants.

Q. But I mean of those that were bought for immediate wants, do you now undertake to say what proportion of them were submitted to you?

A. No; I say only the contracts were submitted to me.

Q. Only the contracts were submitted to you?

A. Yes.

Q. Take six years ago. What was the tonnage of angles bought by that company?

A. I should say about 350 tons.

Q. How much?

A. 350 tons.

Q. Six years ago?

A. Yes.

Q. That is the year before you began there as secretary and treasurer?

A. Yes.

Q. How much seven years ago?

A. I should say about the same. The business has varied very little.

Q. Would it be the same eight, nine or ten years ago?

A. Probably about in the same neighborhood.

Q. Now, what size angles were those?

A. 1^{3}_{4}x1^{3}_{4}x3 16.

Q. Those are small sizes, are they not?

A. Yes, those are small sizes; used as side rails for bedsteads.

Q. Side rails for bedsteads?

A. Yes.

Q. Do you know from whom that company purchased ten years ago? Do you recall now? Do you remember?

A. Ten years ago?

Q. Yes.

A. You mean in 1903?

Q. Well, you were questioned for ten years back. Now, what is the farthest year that you——

A. (Interposing) I think I stated I could not go back beyond a certain distance. I could not go back ten years.

Q. How far back did you say you could go?

A. I think I stated I could go back about five years.

Q. About five years?

A. Yes.

Q. You say now, then, that your recollection as to prices and bids goes back five years; is that correct?

A. Yes; but I have a general recollection of whom we bought the things from, but I could not state whether we bought angles in 1903 from the Buffalo Steel or the Sweet Steel Company, or some other company, but I know we bought angles those years from the lowest bidder.

Q. Take back of five years; can you make any statement as to any of those years, as to from whom you bought, or the quantities or prices at which you bought, or the bids that were taken, and from whom they were taken, and their relation to each other?

A. No.

Q. Then you cannot speak, really, as to the relation borne by bids back of five years; is that correct?

A. Not with any positive knowledge.

Q. Well, not with sufficient knowledge to justify you in stating anything accurately about it, could you?

A. I can state to the best of my recollection that we purchased those angles from these different companies at the lowest price. Now, as to the particular company I purchased from that year, it would be impossible for me to tell.

Q. Or as to who bid, it would be impossible for you to tell?

A. Yes.

Q. On any particular purchase?

A. Yes.

Q. Or as to what the prices were or their relation to each other; that would be impossible, too, would it not?

A. Without referring to the books it would be impossible.

Q. I am speaking now as you are testifying. That is true, is it not?

A. Yes.

Q. Now, take five years ago. From whom did you buy angles that year?

A. I testified that my impression was we bought it from the Buffalo Steel; four or five years.

Q. What year would that be that you recollect you bought from the Buffalo Steel?

A. 1908.

Q. How?

A. 1908.

Q. 1908?

A. Yes.

Q. And do you recall now that you did buy from the Buffalo Steel in 1908?

A. I said that was to the best of my recollection.

Q. All your requirements?

A. Yes, all our contract requirements.

Q. In 1909 do you recall from whom you bought?

A. In 1909 I think we bought from the Buffalo.

Q. From which?

A. From the Buffalo Steel.

Q. All your requirements?

A. I think all of our contract requirements.

Q. I am speaking of contract requirements.

A. Yes.

Q. How about 1910?

A. That was the Buffalo.

Q. How about 1911?

A. We had a contract that year with Carnegie; the latter part of the year.

Q. The latter part of 1911?

A. Yes.

Q. Who was it with the other part of 1911?

A. With the Buffalo, I think.

Q. Now, as to 1912; who was it with?

A. The first part was with the Carnegie.

Q. How about the last part of 1912?

A. I think that was with the Sweet Steel.

Q. And you are sure, now, are you, that you recall back of 1910?

A. I am sure, to the best of my knowledge.

Q. And you have no better recollection on that now, have you, than you had on your direct examination?

A. No, sir.

Q. Take for this year: can you give the bids that were received on any particular purchase and the relation that they bore to each other, and from whom you received them?

A. We had a bid in 1913 from the Sweet Steel of $1.50; that is for the size angle that we use, 1 3/4 by 3/16, and the Carnegie, I think, was $1.54, and the Buffalo, I think, was between the two.

Q. What contract was that in 1913?

A. That was the last contract we made.

Q. How long ago was that?

A. Running for the last six months of this year.

Q. When was that made? In what month?

A. That may have been made in June, but it would take effect the first of July.

Q. Was that delivered?

A. Yes; we got some of it.

Q. No; I mean were the quotations, or the price, delivered?

A. No; f. o. b. the mills.

Q. F. O. B. the mills of the respective companies?

A. Of the respective companies; yes, sir.

Q. And who was to pay the freight?

A. Our company.

Q. Your company was to pay the freight?

A. Yes.

Q. What other contract do you recall where you can state who the bidders were and what the bids were on angles?

A. A contract in the first part of 1913 for $1.19.

Q. When was that?

A. The contract was made, probably, in the latter part of 1912, to cover the first six months of 1913.

Q. With whom did you make that?

A. With the Sweet Steel.

Q. How many bids did you take on that?

A. We got quotations from Carnegie and we got quotations from the Buffalo.

Q. That is all?

A. That is all; yes, sir.

Q. Do you know what the quotations were, now? Can you state what they were?

A. Not on that; no, sir.

Q. Can you state any other than the one which you have stated which was made in June of 1913?

A. No, sir; I cannot.

Q. That is the only one, of all the purchases throughout this period, where you can state what the quotations were that were made to you by the competitive bidders?

A. Yes, sir.

Q. Are these angles all steel that you have been dealing with?

A. Yes, sir.

EMANUEL WINELANDER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Where do you live?

A. 901 Ocean Avenue, Brooklyn.

Q. What is your business?

A. We are making a steel lined brass tubing.

Q. What is the name of your firm or corporation?

A. It is a firm; Winelander & Jackson is the style of it.

Q. How long has that firm been in business?

A. About eleven years.

Q. What if any steel material do you have to purchase from which you make the product that you manufacture and sell?

A. For the last couple of years it has amounted to between eight and nine thousand tons annually. That is in the last two years.

Q. Has that been increasing from year to year?

A. Yes, sir.

Q. What is the character of the steel product that you buy? What is it—bars or hoops or what?

A. Part of it is known as hoops; another portion of it is known as hot rolled strips.

Q. How much of it is hoops; about what tonnage?

A. Twelve to fifteen hundred tons a year.

Q. And about how much hot rolled strip steel do you buy?

A. The balance; about 7,000 tons.

Q. What is the tubing that you manufacture sold for?

A. Mostly for bedsteads.

Q. Where is your market?

A. About 60 per cent. of it is sold locally.

Q. You mean to manufacturers of bedsteads?

A. That is in the district where we can deliver by truck. We reach the district as far as Newark by truck, and Bayonne, and up in Harlem, and Jersey City—the surrounding country here takes about 60 per cent. of our product.

Q. The balance of it you ship?

A. The balance of it is sold all the way to the Pacific coast. We ship some stuff as far as San Francisco, occasionally; occasionally we export some.

Q. From what mills have you purchased your supply of hoop steel?

A. Does that mean recently?

Q. Over this period of time you have been in business, for eleven years?

A. We have bought from all of them.

Q. Give us the names of some of them.

A. The Pittsburgh Steel Company, West Leechburg Steel Company, the Sharon Steel Hoop Company and Carnegie.

Q. How do you make your purchases; by contract or otherwise?

A. By contract.

Q. How often do you usually contract?

A. Twice a year.

Q. Before you enter into a contract do you secure quotations from these companies?

A. We certainly do.

Q. What has been your experience as to whether the prices quoted you by the different mills have been uniform or variant?

A. We always find a variation.

Q. Is the competition in the sale of this material, so far as you have observed it, that is, the sale of hoop steel, active or otherwise, the competition between these mills?

A. There have been times when we have found the scramble for our business rather a fierce one.

Q. It has been an active competition?

MR. COLTON: That is objected to as leading; he has not so testified.

By MR. SEVERANCE:

Q. Has there or has there not always been an active, strong competition?

A. We have always found competition.

Q. From whom have you made your purchases of hot rolled strip steel?

A. The West Leechburg Steel Company, the Sharon Steel Hoop Company, the Superior Steel Company, the American Tube & Stamping Company and the Stanley Works, and the American Steel & Wire Company.

Q. How recently have you bought any from the American Steel & Wire Company?

A. Two years ago.

Q. Have you bought off and on from these various companies for a number of years last past, the ones you have named?

A. Yes, sir.

Q. In what way do you make your purchases of hot rolled strip steel, by contract or otherwise?

A. By contract.

Q. Do you secure quotations before making your contracts?

A. Yes.

Q. What has been your experience as to the quotations received from different concerns, have they been uniform or varying?

A. We have always been able to find differences in quotations.

Q. Have you tied yourself up to any one of these various mills making either class of steel that you have mentioned, or have you traded with one or another as you could do the best?

A. Yes; we have always looked at it from our own standpoint; we try to get as much for our money as we possibly can.

Q. You have not been a regular customer of any one of them?

MR. COLTON: I object to that as leading; he has not so testified.

By MR. SEVERANCE:

Q. Have you been a regular customer of any one of them, or do you buy from different ones?

A. Not from any one of them continuously during that period.

Q. Has the competition between these mills making hot rolled strip steel been an active one at all times or otherwise?

MR. COLTON: I object on the ground that this witness is not shown to be qualified to answer the question. He has no knowledge beyond his own business.

MR. SEVERANCE: He is a purchaser. I think I will take his answer. You may answer.

THE WITNESS: I have always found differences.

MR. SEVERANCE: Repeat the question to him.

(The stenographer repeated the question as follows:)

"Q. Has the competition between these mills making hot rolled strip steel been an active one at all times or otherwise?"

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. You say that you haven't bought anything from the American Steel & Wire Company for two years. Have you bought any of the hoop steel from the Carnegie Company during that period of the last two years?

A. Yes.

Q. Previous to two or three years ago which one of those companies got the bulk of your business in hoop steel?

A. Previous to about three years ago the Pittsburgh Steel Company got most of our business, nearly all of it.

Q. Is your business one in which you have competition?

A. It certainly is fierce and always has been.

MR. SEVERANCE: You may cross examine.

CROSS EXAMINATION

By MR. COLTON:

Q. What is the chemical analysis of the hot rolled steel that you purchase?

A. We have no such requirement as to furnish chemical analysis.

Q. And you do not specify any such thing?

A. No such specification.

Q. What is your base size? Do you have any base sizes in that product of hot rolled strip steel?

A. No.

Q. And it is used indirectly for bedding purposes?

A. Yes; our finished product.

Q. Now, as regards hoop steel, from what different companies did you purchase hoop steel in 1902?

A. The Pittsburgh Steel Company.

Q. That is the year you began to purchase hoop steel?

A. Yes.

Q. What other company did you purchase hoop steel from at that time?

A. No other.

Q. What other companies did you solicit bids from at that time?

A. Probably all of them.

Q. I do not want to know probably; I want to know what your recollection is; what companies you recall having solicited bids from in the year 1902, other than the Pittsburgh Steel Company, if any?

A. I cannot answer that question except to give my usual habit, to go around and shop. That has been my continual habit, to shop.

Q. That is all you recollect about that year?

A. Yes; that has always been my practice.

Q. Take the year 1903; from what company did you purchase your hoop steel?

A. The Pittsburgh Steel Company.

Q. Do you know how the Carnegie Company's price on hoop steel compared with the Pittsburgh Company's price in 1903?

A. Certainly not.

Q. Do you know how it compared in 1902?

A. I know that the one with the lower price usually got the business. There were times when there was some other consideration besides price.

Q. Do you know how it compared in 1902?

A. I could not begin to tell you those years, the actual prices.

Q. Would your answer be the same for 1904?

A. Precisely.

Q. And 1905?

A. Yes.

Q. 1906?

A. Precisely.

Q. 1907?

A. I always bought where I could do the best.

Q. Would your answer be the same as regards the Pittsburgh Steel Company's price and the Carnegie Company's price being the same?

A. For any others.

Q. You have no recollection as to the price between the two companies?

A. Only in a general way; I cannot give you the dollars and cents part.

Q. Do you know whether in 1902 the Carnegie Company's price was higher or lower than the Pittsburgh Company's price, taken into account the other considerations that you sometimes took into account?

A. I do know that in 1902, 1903 and 1904, and possibly 1905, Carnegie was higher than Pittsburgh Steel, but how much higher I could not tell you.

Q. Do you recall that now?

A. Oh, yes.

Q. You said a moment ago that you did not recollect.

A. You tried to fix the difference in price, and I could not tell you that now; I cannot tell you the exact number of cents difference that existed between the prices.

Q. Didn't you say that you sometimes purchased, and during that period you did purchase on other considerations than price?

A. During that period, yes.

Q. And gave it to other than the lowest bidder?

A. Yes.

Q. Have you any recollection why you gave it to the Pittsburgh Company in 1902?

A. I know we did not give it to the Pittsburgh Steel Company at that time or any other time on account of anything else but price.

Q. Was price your only consideration?

A. In that particular case yes?

Q. How about 1903?

A. That was true in 1902 and 1903.

Q. 1904?

A. And 1904; in fact since we have bought from the Pittsburgh.

Q. Price was your only consideration in purchasing from them?

A. Yes.

Q. How many years did you continue to purchase from the Pittsburgh Steel Company?

A. About five or six years.

Q. Now, from what manufacturers did you solicit bids in 1903?

A. During that period I solicited bids from them all.

Q. I want to know just whom you now recall having solicited bids from in 1903.

A. The sharon Steel Company, the Pittsburgh Steel Company and the Carnegie Company.

Q. 1904?

A. The same.

Q. 1905?

A. Same.

Q. 1906?

A. Same.

Q. 1907?

A. You can carry that all along up to 1913.

Q. Just those same three companies?

A. Except in a few years the West Leechburg Steel Company figured in the quotation.

Q. But you cannot now recollect any year in which they did figure in the quotation?

A. Yes; they figured in the quotation in 1910 and 1911.

Q. Any other years?

A. I am not absolutely certain about it.

Q. You have probably stated how long you continued to purchase from the Pittsburgh Company, but I have forgotten it. Could you give that again?

A. About five or six years.

Q. Up to within five or six years of the present time?

A. Covering a period of five or six years.

Q. From 1902 to 1907, inclusive?

A. Yes.

Q. From whom did you purchase in 1908?

A. I think Sharon.

Q. The Sharon Hoop?

A. Sharon Steel Hoop Company.

Q. 1909?

A. Both Carnegie and Sharon.

Q. How did you divide your tonnage that year?

A. I do not recall that.

Q. Do you recall the difference in price between the Carnegie Company that year and the Sharon Steel Hoop Company, in 1909?

A. The Sharon Steel Hoop Company were, as I remember, the same price, except that we got a shearing process for which there was no charge.

Q. The same price as Carnegie during that year, except for that shearing process?

A. That shearing would cost two dollars a ton, ordinarily.

Q. The only other company, I believe, that you said you

got any from in the year 1909 was—there was the Carnegie and the Sharon Steel Hoop, and the Pittsburgh Steel?

A. No; the Pittsburgh Steel did not figure in 1909.

Q. They did not bid on it?

A. I did not say that. I said they did not get the business.

Q. Well, did they bid?

A. They did not get the business. In 1909 we placed our business with Sharon and Carnegie.

Q. I understand, but I want to know whether the Pittsburgh Steel Hoop Company bid in 1909.

A. Oh, yes.

MR. SEVERANCE: It is not the Pittsburgh Steel Hoop Company.

MR. COLTON: The Pittsburgh Steel Company.

THE WITNESS: Yes.

By MR. COLTON:

Q. Do you recall what their bid was?

A. No, sir.

Q. Take 1910; to whom did you give your business?

A. Carnegie.

Q. What other companies bid on your business for that year?

A. Sharon Steel Hoop and Pittsburgh.

Q. Do you remember the bids of the Sharon Steel Hoop and the Pittsburgh for that year?

A. And the West Leechburg came in in that year.

Q. Well, do you remember the bid of the Carnegie Steel Company for that year?

A. I do not remember the bid, or I do not remember the price at which we placed the business.

Q. Do you remember the price of any of the bids for that year?

A. Absolutely not.

Q. In 1911, I believe you have already testified that the Sharon Steel Hoop and the Pittsburgh and the West Leechburg and the Carnegie bid?

A. Yes.

Q. And to whom did you give it?

A. Partly to West Leechburg, and the most of it to Carnegie.

Q. What was the difference in price between West Leechburg and Carnegie for that year?

A. I do not recall the price. I can only say what I have said before, that we always placed our business where we could do the best.

Q. You do not recall now whether the prices were the same or not?

A. I never found the prices the same in any case.

Q. Well, you testified a moment ago that they were the same as between——

MR. SEVERANCE: No, he did not.

MR. COLTON: That they did some work for you in addition——

THE WITNESS: Well, that amounted to a difference in price, actually.

MR. SEVERANCE: Two dollars a ton.

By MR. COLTON:

Q. Take the year 1912. To whom did you let your hoop steel purchases?

A. Carnegie.

Q. And at what price?

A. I do not recall that.

Q. Did you give your entire business to Carnegie in 1912?

A. Yes.

Q. In 1913 to whom did you give your business?

A. Carnegie.

Q. At what price?

A. I do not recall that.

Q. Do you not recollect the price at all for the year 1913 at which you let your contract to Carnegie?

A. I certainly do not. When I want to look up the price that we are paying, I would look at the contract in my office. I have got two or three other things to remember.

Q. You do not pay so much attention to the price, then; you do not try to keep that in your head?

A. No; it is not necessary. We have it so arranged that it is not necessary to burden your mind with that.

Q. With these various figures—it is not necessary to burden your mind with these various figures?

A. They are handy enough when we went them.

Q. You keep them as a matter of record, and do not try to recollect them otherwise, do you? You have no special reason to do so?

A. Well, we have lots of reason to look at those figures, but we do not try to commit them to memory. Whenever it is necessary to reach those figures, they are very handy.

Q. Have you any base price in steel hoops?

A. No, sir.

Q. Any base sizes in steel hoops?

A. No, sir.

Q. Are there any standard sizes in steel hoops?

A. No, sir.

Q. Do you mean to say that you do not have any size that is standard? Do you have any system of extras in steel hoops?

A. We get net prices.

Q. What?

A. We get net prices; delivered prices.

Q. You get net prices?

A. Yes.

Q. I know, but do you not have any arrangement by which, when you are given a price on a certain size of hoop, that you can figure the price on other sizes?

A. Yes; that was included in one of our contracts, but we never had occasion to order anything different than what is specified in our contract. Net prices are given for those sizes.

Q. There is one size from which you can figure the prices of other sizes; is that right?

A. No, sir. In one of our contracts we had that.

Q. In which one of your contracts?

A. I think that was this year's.

Q. That is, in the Carnegie contract?

A. Yes, sir; that is the latter part of this year's contract; that was the contract covering the latter part of this year.

Q. Do you know within a dollar a ton what you are paying Carnegie this year for hoop steel?

A. Our contract price, as I recall it, was $1.66, delivered.

Q. $1.66 delivered?

A. Yes.

MR. SEVERANCE: That is not a ton.

MR. COLTON: That is 100 pounds?

THE WITNESS: That is 100 pounds.

By MR. COLTON:

Q. Do they quote steel hoops to you f. o. b. Pittsburgh?

A. That is a delivered price.

Q. I say, do they also quote it f. o. b. Pittsburgh?

A. Possibly they do, but in arriving at our conclusions we take in either the delivered or non-delivered price. It is all put into their estimate or quotation. We always, I think, as I remember it, had a delivered price from Carnegie. Some of the other mills quote f. o. b. their works.

Q. And in making a comparison of the price, and looking at it from your point of view as to which company you will select, you look at the delivered price, of course?

A. Oh, yes; certainly.

Q. And that is the price concerning which you have been testifying—the delivered price?

A. Yes, sir.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. You said that at times there were other considerations than price that entered into the purchase of these products. What were those other considerations you had in mind?

A. The reliability of the concern with whom we did business.

Q. The reliability of the concern in making deliveries, you mean?

A. Yes; that principally, and accommodations in various other ways.

MR. SEVERANCE: That is all.

LAMBERT N. HOPKINS

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Where do you reside?

A. Chicago.

Q. What is your business?

A. Purchasing agent of the Chicago, Burlington & Quincy Railroad.

Q. How long have you been purchasing agent of the Chicago, Burlington & Quincy Railroad?

A. Eight years and five months.

Q. And how long have you been connected with that railroad in one capacity or another?

A. It will be twenty-nine years next May.

Q. Have you ever been in the service of any other railroad than the C., B. & Q.?

A. No, sir.

Q. Previous to the time you were purchasing agent what was your position?

A. I was supply agent. I had charge of all the storehouses and all the material along the road.

Q. But had nothing to do with the purchases?

A. No, sir; not a thing.

Q. In so far as your purchases consist of steel products, did you have anything to do with purchasing previous to eight years and a few months ago, when you became purchasing agent?

A. No, sir; never.

Q. And since that time have the steel purchases been in your charge as well as others?

A. Yes.

MR. DICKINSON: Do you mean rails now?

MR. SEVERANCE: Yes; rails—he will explain that. I will have him explain just how that is.

By MR. SEVERANCE:

Q. You have to do with the purchase of rails, in conjunction with others, have you not?

A. Oh, yes.

Q. And outside of the rail purchases do you have, as a rule, the entire charge of the purchases?

A. Yes, sir.

Q. Can you give an estimate of about the annual tonnage requirements of the C., B. & Q. Railroad in general miscellaneous steel products, outside of rails?

A. Well, outside of rails and rail fastenings—I think I would have to leave out steel bridges—I should say in general miscellaneous steel about 57,000 to 60,000; but it would be very much more than that if you included bridges and rail fastenings and spikes.

Q. About what are your annual requirements of rails; or does that differ from year to year?

A. That varies from year to year. Sometimes thirty or forty thousand tons, and I have known it to go up as high as 90,000 tons.

Q. Do you remember what it is this year?

A. You mean for the year 1913?

Q. For the year 1913, yes.

A. 65,000 tons.

Q. What is the mileage of the C., B. & Q., exclusive of the Colorado & Southern?

A. Something over 9,000 miles.

Q. How long is the Colorado & Southern?

A. I think about 1,100 miles.

Q. That is a subsidiary, is it not?

A. Yes; that is a subsidiary line.

Q. Do you do the purchasing for the Colorado & Southern?

A. Not all of it; part of it.

Q. Do you make the rail purchases?

A. No, sir.

Q. Who are they made by?

A. I don't know.

Q. What is the chief source of supply of the C., B. & Q. as far as rails are concerned?

A. From the Illinois Steel Company and the Colorado Fuel & Iron Company.

Q. Will you state, just so that it will be in this connection, very briefly where your lines run? They start at Chicago, in the east?

A. We run from Chicago to Kansas City, St. Louis, Omaha, Denver, St. Paul, and as far out as Billings, Montana.

Q. Are there any other steel plants that are contiguous to the rails of the C., B. & Q. aside from the Illinois Steel Company and the Colorado Fuel & Iron Company that make rails?

A. No, sir.

Q. Outside of the rails that you purchase from the Colorado Fuel & Iron Company and the Illinois Steel Company, what other mills are there that supply any portion of your rail requirements?

A. We have bought small quantities of rails from the Lackawanna, the Pennsylvania Steel Company, the Bethlehem, and, I think, from the Cambria. I won't be positive about that.

Q. Do you have peculiar specifications for your rails, or do you buy what are commonly known as standard rails?

A. We have been buying on the standard specifications.

Q. And do you buy open hearth or Bessemer rails?

A. We are buying open hearth now. We have bought Bessemer.

Q. Have the prices of the various mills for rails f. o. b. the mills been the same for a number of years past?

A. Yes, sir.

Q. What advantage is there, then, in price or cost to

you, if any, in buying of the Illinois Steel Company and the Colorado Fuel & Iron Company, rather than the mills in the east?

A. Well, they are cheaper because they deliver the rails f. o. b. our tracks. They are very close to us, of course. They absorb the switching charge and the rails are delivered f. o. b. our tracks; and from the other mills we would have to pay the freight, whatever it is, from the mills to Chicago.

Q. What has been the extent of your rail purchases from these mills in the east?

A. Oh, varying from 3,000 to 5,000 tons perhaps from any one of them.

Q. In a year?

A. Yes.

Q. What was the purpose of making these purchases? How did you happen to do it, if they cost you more money?

A. Simply because they claimed they make a better rail than the Colorado Fuel & Iron or the Illinois Steel Company, and we bought those rails experimentally.

Q. Are you buying any rails from the eastern mills this year?

A. For next year's delivery?

Q. Yes.

A. Yes, sir.

Q. How much, and from what company?

A. About 3,000 tons, from the Lackawanna.

Q. Did you buy any rails from eastern mills for 1913 consumption?

A. Yes.

Q. What company?

A. The Lackawanna.

Q. Do you happen to remember how much more those rails cost you than the Illinois Steel rails, delivered f. o. b. Burlington tracks?

A. They came lake and rail, and my recollection is that f. o. b. cars our tracks they would cost us $1.31 or something like that more than the Illinois Steel rails.

Q. You say you have made those purchases of rails for experimental purposes? Will you explain that a little more

fully? What is claimed for these rails as against the rails of the Illinois Steel Company and the Colorado Fuel & Iron, that induced you to make the purchases in the east?

A. They last longer; they are a safer rail, and last longer.

Q. You spoke of buying some rails from the Cambria and the Pennsylvania.

A. I wasn't sure about the Cambria.

Q. But you bought from the Pennsylvania?

A. Yes, we had some of theirs and some of the Bethlehem.

Q. What particular virtue is claimed for those rails rolled at the Bethlehem or at the Pennsylvania Steel Company's plant over the rails rolled at Chicago or at Pueblo, that induced you to buy at this higher price?

A. I would not care to go into the detail of that, because I am not a technical man. They claim that they are a better rail, but that is as far as I care to go.

Q. And you are trying them out, are you?

A. Yes.

Q. Has much effort been made by these eastern rail makers to induce you to try their rails?

A. Yes.

Q. What form did that effort take?

A. Oh, by continually soliciting our business.

Q. Outside of rails in general, what classes of steel products do you buy? Can you enumerate some of the articles?

A. Well, we buy sheets and bridges, all kinds of structural material, bolts, spikes, angle bars, practically everything they make.

Q. Do you buy any wire goods?

A. Yes.

Q. What kinds?

A. Barbed wire and woven wire fence, and we buy telegraph wire and common wire and insulated wire.

Q. Do you buy any plates—or did you mention plates?

A. Yes, we buy plates; boiler plates and sheets of all kinds.

Q. Do you buy any boiler tubes?

A. Yes, lots of them.

Q. Do you buy any axles?

A. Yes.

Q. And wheels?

A. Yes.

Q. What kind of wheels, steel or iron?

A. Principally iron. We have bought a few solid steel wheels to experiment with. That is in its experimental stage with us; we are not at all convinced that it is the most economical proposition.

Q. Then, have you purchased iron wheels with steel rims?

A. Oh, yes; we buy steel tired wheels for passenger coaches principally, with the cast iron centers. Of course we buy steel tires for locomotive and tender wheels.

Q. You have stated that the prices of steel rails have been, for standard specifications, the same at different mills for a number of years past?

A. Yes.

Q. How has it been with your other classes of steel products that you bought? Have you found the prices uniform or varying, ordinarily?

A. Oh, they vary.

Q. What is your practice in buying the general run of steel products, such as you have enumerated here, as to requesting or receiving bids or tenders from the different manufacturers or mills?

A. Price and quality, all things even.

Q. Well, do you receive bids, do you get bids?

A. As a rule I send out written inquiries; sometimes I do not; sometimes I get verbal bids.

Q. Is it or is it not your custom to place your orders on a competitive basis?

A. Yes.

Q. What percentage would you say of this miscellaneous steel is let, or contracts for it let on competitive bids?

A. Eighty-five to ninety per cent.

Q. What is the occasion of a certain part of it being purchased without bids?

A. Frequently we want something in a big hurry and have to get it wherever we can.

Q. A sort of emergency purchase?

A. Emergency case, yes; and there are times when the condition of the market is such that it is not advisable to make contracts, or anything of that kind.

Q. That is, when it is more advisable to buy from hand to mouth?

A. Yes.

Q. It appears by the petition in this case, and as I recall, the fact has been stipulated, that Mr. George F. Baker, one of the directors of the United States Steel Corporation, and Mr. Norman B. Ream, one of the directors of the United States Steel Corporation, are both of them directors of the Chicago, Burlington & Quincy Railroad Company. I would like to ask you whether either one of those gentlemen has ever interfered in any way with the purchase of steel products by the Chicago, Burlington & Quincy Railroad Company, directly or indirectly, so far as you have ever heard.

A. No, sir.

MR. COLTON: I object to the witness giving testimony on hearsay, and I object to the statement as hearsay.

By MR. SEVERANCE:

Q. You have stated that the purchases of miscellaneous steel are made absolutely by you, have you not?

A. Yes.

Q. Have either of those gentlemen, either directly or indirectly, ever endeavored to influence your action in placing any order whatsoever for steel products of the character manufactured by the United States Steel Corporation?

A. No, sir.

Q. You have stated that you, with other officials of the road, distribute the rail tonnage——

MR. DICKINSON: No, he has not said that.

THE WITNESS: We do. I do not know whether I stated that, but we do.

MR. SEVERANCE: I asked him that and he said that.

MR. DICKINSON: Distributed the rail tonnage?

THE WITNESS: No, I never testified to that.

MR. SEVERANCE: The rail purchases?

MR. COLTON: You had better ask him what he does in reference to that.

MR. DICKINSON: He did not say what you said he said.

THE WITNESS: You asked me if I bought the rails; that is my recollection. You did not ask me what I did with the other officials after distributing the rails. If you did, I beg your pardon.

By MR. SEVERANCE:

Q. That is what I had in mind, but let me ask you: Just tell what course is taken in determining the mill that shall furnish the rails.

A. That matter is discussed between the operating officials and myself, and we decide on the division, and the amount of rail is approved by the president.

Q. The operating officials. Who are the operating officials?

A. Mr. H. E. Byram, vice-president——

Q. (Interposing) Mr. Byram is vice-president in charge of operation?

A. Yes.

Q. And Mr. Byram and yourself, in the first instance, decide that question?

A. We talk the matter over, and decide about the distribution of the purchases of rails.

Q. Now, what is done by the president?

A. He authorizes the amount of rails that the operating officials decide that they would like to have for the coming season. He decides whether we can afford to buy it, in other words; whether we have got the money to spend.

Q. I see. Then is it the operating vice-president and yourself who determine which mill shall furnish the rails?

A. Well, he, of course, consults with his subordinates, and he and I talk the matter over and decide it.

Q. That is what I meant.

A. Yes.

Q. Has Mr. Ream or Mr. Baker ever, to your knowledge, interfered, directly or indirectly, with the distribution of the

rail tonnage as between the Illinois Steel Company, which is the only mill you seem to have purchased from, and which is controlled by the Corporation, and other manufacturers or rollers of steel rails?

A. No, sir; not to my knowledge.

Q. Now, taking up some of these different items; I cannot go through them all in detail, but I will ask you about some of the items of steel products that you have mentioned. Take the matter of bridges; in what way have you let your contracts for bridges?

A. We send out inquiries with plans and specifications of bridges that are wanted.

Q. And receive bids?

A. And receive bids.

Q. And who gets the contract?

A. The lowest bidder, all things being even, provided it is a shop that can do the work.

Q. Now, taking that into account, what investigation, if any, do you at any time make to determine the ability of a shop to do work that they bid on?

A. If any new concern comes in and wants to bid on bridges, I request the bridge engineer to send one of his men to their shop and have him carefully investigate that shop and see whether they can do the class of work that is required. We would not think of taking them into consideration unless we did that.

Q. Can you give the names of some of the bridge companies that have built bridges for the C. B. & Q. within the last ten or twelve years?

A. Yes. McClintic-Marshall; Wisconsin Bridge Company.

Q. Where are they located?

A. Milwaukee. Then there is the Pennsylvania Steel Company, and the Morava Steel Company——

Q. (Interposing) The Morava Construction Company, is it not?

A. Yes; that is it.

Q. That is a Chicago concern, is it not?

A. Yes; I think so.

Q. American Bridge Company?

A. Oh, yes, the American Bridge Company. I thought you said other than the American Bridge Company.

Q. No.

A. I beg your pardon.

Q. Have the King people ever built any bridges for you?

A. Yes.

Q. Do you know the Lackawanna Bridge Company, of Buffalo?

A. Yes.

Q. Have they ever built bridges for you?

A. Yes.

Q. Do you know the Riter-Conley Company?

A. Yes.

Q. Have they ever built anything for you?

A. Yes.

Q. What have they built?

A. They have built bridges for us.

Q. Do you know the Kenwood Bridge Company, of Chicago?

A. Yes; they have built bridges for us. I think we have asked for bids from every bridge company in the United States, pretty near.

Q. How is that?

A. I think we have asked for bids from every bridge company in the United States; that is, of any note.

Q. Well, are there other bridge companies along the line of your road that have done some work for you in a small line, like the Clinton Bridge Company?

A. Yes; some of those bridge companies make overhead crossings—light bridge work. When I said every bridge company, I want to modify that. I meant within a certain radius adjacent—within a fair distance of Chicago.

Q. You have sent out general requests for bids, have you?

A. Yes, we do. We send out a great many.

Q. Has that been your practice at all times?

A. Yes, sir; ever since I have been purchasing agent, and before, also.

Q. You certainly know of your own knowledge that has been the case for eight years and five months last passed?

A. Oh, certainly.

Q. Is your tonnage in bridges a rather large tonnage, Mr. Hopkins?

A. Well, not excessively large. We buy a good many bridges. We buy them right along.

Q. It is a continuous business, is it?

A. Yes. There is an estimate put in every year of just what steel bridges they want to buy, and that is passed on. I should consider it large, yes, as compared with some other roads. I do not know just exactly what it amounts to, but that could be very easily looked up if it is necessary.

Q. Are there some years that the American Bridge Company has secured quite a large percentage of your business and other years when they have had a very small percentage?

A. Yes.

Q. Do they bid on all your big work?

A. Yes, sir.

Q. And ordinary sized bridges also?

A. Yes; as a rule they bid on everything.

Q. Do you buy nails?

A. Oh, yes.

Q. A good many nails?

A. Lots of them.

Q. And of what kinds?

A. Well, we buy wire nails and cut nails, and cement coated nails.

Q. Does the American Steel & Wire Company make cement coated nails?

A. No, sir.

Q. Do they make cut nails?

A. Yes. No; they make wire nails.

Q. They do not make cut nails?

A. No, they do not make cut nails.

Q. They only make wire nails?

A. Yes, they only make wire nails.

Q. Are these cement coated nails used interchangeably with wire nails, or are they used for different purposes?

Mr. Colton: I object on the ground that the witness has not been shown to be familiar with the facts.

By Mr. Severance:

Q. If you know?

A. Cement coated nails are used principally in car repair work.

Q. Are wire nails also used for that same work?

Mr. Colton: I object to the question as leading.

By Mr. Severance:

Q. You may answer.

A. Will you repeat it?

Q. Are they used for the same work? Can you use either the cement coated nails or wire nails?

A. Oh, you could, yes.

Q. Who were the makers of cement coated nails that you bought from, if you remember?

A. Well, we have bought from the Cambria people—I have forgotten just who else.

Q. Do you know a concern in Boston that makes those by the name of Pierson?

A. Oh, yes; that is so.

Q. That is a very well known concern in that line, is it not?

A. I think so, yes.

Q. From whom do you buy your cut nails?

A. We buy them from the Illinois Nail Company; may I look at a memorandum that I have made here?

Q. Yes. That was made up by yourself?

A. Made by myself, yes.

Q. To refresh your recollection?

A. Yes.

Mr. Colton: I object on the ground that it is not shown that the witness has any recollection as to what may appear on this memorandum, and he has not so testified, and it is improper, therefore, for him to use it.

MR. SEVERANCE: Just a moment. I will ask him about that.

By MR. SEVERANCE:

Q. I talked with you about these various things, did I not?

A. Yes.

Q. Did you think the matter over and make a memorandum and jot down certain things this noon?

A. Yes.

Q. By the use of that memorandum that you jotted down in that way, can you refresh your recollection and answer what I have just asked you?

A. Yes.

Q. You may use the memorandum to refresh your recollection.

MR. COLTON: I object. Just a moment.

By MR. COLTON:

Q. When did you make this memorandum?

A. This noon.

Q. From what sources?

A. From my memory.

Q. Your memory was better then than it is now?

MR. SEVERANCE: He has not said so.

By MR. COLTON:

Q. Is it?

A. I did not say so. I just jotted down these things as I thought of them.

MR. COLTON: I object to the use of the memorandum on the ground that you have not tried out the witness' memory first. You should not use a memorandum in any event until the memory of the witness has been tried out. I object further on the ground that this memorandum is improperly made, and is not such a memorandum as the witness may properly use to refresh his recollection.

MR. SEVERANCE: Now, I will ask to have the pending question read by the stenographer.

(The stenographer repeated the question referred to as follows:)

"Q. From whom do you buy your cut nails?

"A. We buy them from the Illinois Nail Company—may I look at a memorandum that I have made here?"

By Mr. Severance:

Q. Now, by refreshing your recollection by the use of this memorandum that you made this noon, will you state what other companies, if any, you bought cut nails from?

A. Hibbard, Spencer, Bartlett & Company, of Chicago; H. L. Green & Company——

Q. What are they?

A. Green is a broker; Hibbard, Spencer, Bartlett & Company are a very large hardware house, jobbers.

Q. What do you mean by a broker? Whom does he represent?

A. He represented various companies. I do not know just who they were, now. He may not have called himself a broker; he had accounts.

Q. That is a trade expression, is it not, "having accounts"?

A. Yes.

Q. Are these cut nails you bought from him nails that can be used for similar purposes to those for which the wire nails are used?

A. Well, they could be, yes.

Q. Just so as to have it in the record—I do not think it has been explained—what is a cement coated nail?

A. It is a wire nail coated with a preparation to prevent it from pulling out. After you drive them in they stick better. They do not become loose.

Q. Do you use a good many of them?

A. Yes; a good many.

Q. Do you buy valves?

A. Yes, sir.

Q. For what purpose are they used?

A. Oh, they are used for very many different purposes. They are used on locomotives, and they are used for piping, and plumbing.

Q. From whom have you bought them?

A. We have bought valves from Crane; we have bought what we call the Ashton valve, and from H. B. Clow & Company of Chicago.

Q. Have you bought valves from the National Tube Company?

A. Yes, we have.

Q. What is the Ashton valve; is that the name of a company that makes valves?

A. Yes; it is the name of a company that makes valves.

Q. Where are they located, if you know?

A. In Boston.

Q. You said you bought some woven wire fence. From what concerns have you bought woven wire fencing?

A. We have bought from the American Steel & Wire Company and the Keystone people—I have forgotten just the name of that company—in Peoria.

Q. The Keystone Steel & Wire Company?

A. The Keystone Steel & Wire Company, and—I have forgotten, but there are others.

Q. Have you ever bought any wire fencing from the Youngstown Sheet & Tube Company or the Pittsburgh Steel Company, or any of those——

A. Yes, I think we have; yes, sir.

Q. From whom have you bought barbed wire?

A. We have bought barbed wire from Hibbard, Spencer, Bartlett & Company and from the American Steel & Wire Company.

Q. You also spoke of telegraph wire. What do you use telegraph wire for? You do not telegraph, do you?

A. We use that for telephone wire, and for wires in interlocking plants—various purposes. Most of our dispatching is done by telephone, and we have our own wires strung on the Western Union poles.

Q. Are your requirements of telegraph wire, then, rather large?

A. Yes; fairly so. We use quite a good deal of it.

Q. From what concerns have you bought telegraph wire?

A. We have bought it from the Western Electric Com-

pany and the American Steel & Wire Company. We buy it from Roebling's. Of course, there are a lot more that I cannot remember offhand.

Q. There are a number of Chicago concerns that you have bought it from?

A. Yes; the Central Electric.

Q. That is a Chicago company?

A. Yes. I named the Western Electric, didn't I?

Q. You named the Western Electric, yes.

A. Well, there are a good many of them; I cannot recall them offhand.

Q. There are a great many concerns and you do not remember them now.

A. No.

Q. From whom have you bought insulated wire?

A. We have bought insulated wire from the Central Electric, from the Kerite Company, from the Western Electric and some from the American Steel & Wire Company.

Q. What is this Kerite? That is the Kerite Insulated Wire & Cable Company of New York?

A. Yes.

Q. What is Kerite?

A. It is considered a very fine insulated wire; it ranks with what is called Okonite wire. For instance, if you were going to wire a building like this, or where you wanted to use a high-grade wire, those two wires are considered very good, both of them.

Q. Do you buy a good deal of that?

A. We buy a good deal of Okonite wire; we buy more Okonite wire than any other kind of insulated wire on that quality.

Q. Whom do you buy that from?

A. The Central Electric Company.

Q. Now, what kind of insulated wire do you buy from the American Steel & Wire Company?

A. Well, we have bought some—we buy a wire of not quite as good a grade; that is, we do not consider it as good a grade as these other two. When we buy insulated wire

from them we can use it where we would not want to go to the expense of using the higher priced wire.

Q. That can be used for the same purpose as the Kerite and the Okonite?

A. The American Steel & Wire Company have an insulated wire that they think is as good as Okonite and Kerite, but we don't think so.

Q. Are they sold in competition with each other in the market?

A. Yes.

Q. Take this telegraph wire; are there different classes of that or is it all about the same thing, if you know?

MR. COLTON: I object to that on the ground that the witness is not shown to be qualified to answer.

(The question was repeated by the stenographer.)

THE WITNESS: It is all about the same.

By MR. SEVERANCE:

Q. You mentioned railroad spikes. Do you purchase spikes with rails ordinarily, or do you buy them separate from the rails?

A. We buy them separately.

Q. From what concerns do you buy your spikes?

A. The Illinois Steel Company, the Inland Steel Company and the Colorado Fuel & Iron Company.

Q. Have you bought any spikes from anybody in the Pittsburgh district?

A. We have, yes.

Q. From whom?

A. We have bought spikes from Jones & Laughlin; not recently.

Q. You use a good many bolts, don't you?

A. Yes.

Q. Do you use iron or steel bolts?

A. We use very few steel bolts; practically all iron.

Q. What is the reason for that?

A. We think the iron bolt is the best.

Q. They are used for similar purposes, are they?

A. Yes, track bolts largely. I presume you have reference to track bolts?

Q. Yes; they are used for similar purposes, iron and steel, used interchangeably, are they?

A. Yes.

Q. They are sold in competition with each other?

A. Yes.

Q. From whom do you make the bulk of your purchases of bolts?

A. From the Lake Erie Iron Company of Cleveland and the American Iron & Steel Company of Lebanon, Pennsylvania.

Q. Do you buy steel bolts from any of the subsidiaries of the Steel Corporation?

A. We bought a few steel bolts from the Illinois Steel Company. They are a certain sized bolt that our engineering department are willing to use, a smaller sized bolt. We buy steel bolts.

Q. Do you buy steel bolts from anybody else?

A. Well, we haven't for some time.

Q. Do you buy iron bolts from other people than the two concerns you named from whom you got your principal supply?

A. Not often.

Q. Which are cheaper, the iron or steel?

A. Steel.

(Whereupon an adjournment was taken until to-morrow, Wednesday, December 3, 1913, at 10:30 o'clock a. m.)

ONE HUNDRED AND TWENTY-THIRD DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Wednesday, December 3, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. BOLLING.

LAMBERT N. HOPKINS,

the witness under examination at the taking of adjournment, resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. SEVERANCE:

Q. You testified yesterday relative to purchases of rails and other things, as to the manner in which they were made, and that they were under your charge. Have you an explanation that you want to make with reference to that statement?

A. Yes. On thinking that over I would like to modify what I said. I have known the president to place the order for rails.

Q. Is that usual or unusual?

A. That is rather unusual. Also I would like to state that, on occasions, he buys equipment, places an order for equipment such as cars or locomotives.

Q. Is that unusual?

A. Rather unusual; yes, sir. It is usually done by me.

Q. On these occasions when the president has placed an order for rails or equipment, has that been done after talking with you, or have you been consulted?

A. No.

Q. He has done that?

A. He has done that and talked to me afterwards.

Q. And you make the contract?

A. I arrange all the details of the contract, and he signs the contract for rail and equipment. That is the rule of the company.

Q. How is that in the ordinary course, where you make the purchase?

A. I O. K. it and he signs it. That is the rule of the company.

Q. Except for that modification your testimony as given yesterday with reference to your control of the purchases is correct, is it?

A. Yes, sir.

Q. I overlooked, in asking you about the nail purchases yesterday, as I see by the record, the matter of your purchase of supplies of common nails. You testified in reference to cut nails and cement coated nails, but I did not ask you from whom you purchased common wire nails.

A. We buy them from Hibbard, Spencer and Bartlett, the Illinois Nail Company——

Q. Do you buy them from the American Steel & Wire Company?

A. From the American Steel & Wire Company.

Q. From whom, if you can recall, have you made purchases of steel plates and structural steel?

A. Jones & Laughlin, Cambria, Inland Steel Company, Ryerson and various others that I do not recall right now.

Q. Have you ever bought anything from either Worth or Lukens at Coatesville?

A. I have bought from Worth.

Q. You have bought plates from Worth?

A. Yes, sir.

Q. Ryerson is a jobber, is he not?

A. Yes, sir.

Q. Have you made any purchases from the Allegheny Steel, of plates, or do you remember?

A. I do not remember.

Q. Are you now attempting to give a full list, or only such as you recall?

A. Just such as I recall. It would be impossible for me to give the full list, Mr. Severance, offhand.

Q. Have you ever bought any structural from the Phoenix Iron Company, or do you remember?

A. I do not recall whether I have or not.

Q. From what different concerns have you bought steel axles, as far as you can remember?

A. From Block, Pollock & Company, of Cincinnati, the Standard Forging Company, the Standard Steel Works, Cambria, and the Carbon Steel Company.

Q. Have you bought from Carnegie some axles?

A. I think so.

Q. Or from the Illinois Steel Company—either one?

A. Yes, we have.

Q. Did you ever buy any of Willard Sons & Bell, of Chicago?

A. Oh, yes; Willard Sons & Bell, of Chicago; I overlooked them. Yes, we have.

Q. Is that a rather important firm in that line of business, or not?

A. Yes; they are quite an important firm in the axle business.

Q. Have you ever bought any axles from Bethlehem?

A. I think so; yes, sir.

Q. You are not sure about that?

A. I am not positive about that.

Q. Is or is not the axle business a highly competitive one?

Mr. Colton: I object to that on the ground that it calls for a conclusion based upon a state of facts not disclosed to the court.

Mr. Severance: You may answer.

The Witness: Will you ask that question again, please?

By Mr. Severance:

Q. Yes. I asked you whether or not that is a highly competitive line.

A. Yes, sir.

Q. From whom do you buy boiler tubes?

A. The National Tube Company; Detroit Seamless Tube

Company, and the Globe Seamless Tube Company, of Milwaukee. We have bought iron tubes from the Parkesburg Iron & Steel Company, I think it is.

Q. The Parkesburg Iron Company, I think, is the proper name, if I remember right.

A. Yes, I think that is right; and from George E. Molleson & Company, who are agents for the Tyler Tube Company. They are in New York here.

Q. Do you remember any others, Mr. Hopkins, now?

A. The National Tube Company.

Q. Yes, but you mentioned them. I say, do you recall any others, outside of the ones you have named?

A. No.

Q. Is that a complete list, or do you think it is not a complete list?

A. Well, there may be others; I do not remember now.

Q. You do not recall any others?

A. No.

Q. From whom have you bought steel pipe and fittings?

A. Well, we have bought from the Crane Company and George B. Limbert.

Q. Did you ever buy any from Clow, out there in Chicago?

A. Oh, yes, Clow; yes, sir.

Q. That is a large concern, is it?

A. Yes, that is a large concern. I forgot about that.

Q. By the way, speaking of fittings and that sort of thing, is the Crane Company a large or small factor in that business?

A. Very large.

Q. Do you buy turn tables?

A. Yes, we do.

Q. Do you remember any people from whom you have bought turn tables?

A. Well, we have bought them from the American Bridge Company, and the King Company, I think; Chicago Bridge & Iron Works. I do not remember any others now.

Q. And others?

A. And others; yes, sir.

Q. You have sent out general inquiries on that, have you?

A. Yes, we have sent out general inquiries.

Q. Where do you buy your tie plates?

A. From the Illinois Steel Company; Inland Steel Company; Interstate Iron & Steel Company; Sellers Manufacturing Company, of Chicago. The last two are iron plates.

Q. How is that?

A. The last two mentioned firms make——

Q. Iron plates?

A. Yes; that is, the Interstate and Sellers, if they were the last two I mentioned.

Q. Did you ever buy any tie plates from Dilworth-Porter, of Pittsburgh?

A. We have; a few.

Q. What do they make? Iron or steel?

A. Steel.

Q. Do you remember the names of some of the concerns that you have bought steel sheets, black or galvanized sheets, from?

A. Yes: Hibbard, Spencer, Bartlett; Ryerson; Inland Steel Company. Then there is an agent in Chicago, Theodore Geissmann, of Chicago. We have bought through him also, and there are many others.

Q. Do you ever buy from the American Sheet & Tin Plate Company?

A. Oh, yes.

Q. Have you bought sheets from a good many different people?

A. Yes; we have sent out inquiries broadcast for them.

Q. What has been the general policy of the Burlington Road as to inviting extensive competition in the steel products that you have to purchase?

A. It has always been our policy, sir, to invite competition.

Q. Rather broad competition?

A. Yes; broad competition. We believe in it absolutely.

Q. Could you give any estimate, Mr. Hopkins, of about how large a percentage of your steel requirements have been bought from subsidiaries of the United States Steel Corporation during the time you have been purchasing agent?

A. Can I give an estimate?

Q. Yes.

A. Oh, I should say—does that include rails?

Q. Yes, include everything.

A. I should say 50 to 60 per cent.

Q. Now, suppose you exclude rails.

A. Well, I do not know that that would alter my estimate very much, for the reason that our rail orders are divided, as I have testified, between the Illinois Steel Company and the Colorado Fuel & Iron Company. Sometimes one gets a little more than the other, but not often.

Q. So you think that would be about a fair estimate of the total?

A. Yes, sir; I think that would be a fair estimate.

Q. Outside of the Illinois Steel, the Colorado Fuel & Iron and the Inland Steel Company, are there any large steel mills located adjacent to your rails—contiguous to them?

Mr. Colton: I object to the form of the question on the ground it implies that the Inland is a large company.

Mr. Severance: Well, if you will go and look at it I think you will think it is. You may answer, Mr. Hopkins.

The Witness: The Illinois Steel, Colorado Fuel & Iron and the Inland——

By Mr. Severance:

Q. (Interposing) Yes; I say, are there any other large mills? There are other steel plants, but——

A. No; no very large ones.

Q. You do not reach the Pittsburgh district, or you do not reach the Ohio district?

A. No; there are no very large ones that I can recall now.

Q. The others are smaller?

A. As I recall now the others are smaller.

Q. And your requirements, in so far as they are furnished by the Illinois Steel Company, come from the Gary plant as well as from the old plants of the Illinois Steel Company?

A. Yes.

Q. Do you buy any tin plate? I forgot to ask you about that.

A. Yes, we do buy some.

Q. That is not a very large item with you?

A. Not very large.

Q. Where have you purchased your tin plate?

A. We buy it from Hibbard, Spencer and Bartlett, and I recall a firm in Philadelphia, I believe, Merchant and Evans.

Q. Do you buy any from the American Sheet & Tin Plate Company?

A. Yes; we buy from them also. I do not know why I left them out.

Q. You thought I was asking about outside of them?

A. Yes.

Q. Do you ever buy any from N. & G. Taylor, the old style?

A. Yes, sir.

Q. Does the testimony you have given as to other classes of products, relative to competition, apply to tin plate also?

A. Yes.

MR. SEVERANCE: I think you may examine, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. Is Mr. Darius Miller president of your company?

A. Yes.

Q. His predecessor was George B. Harris?

A. George B. Harris, yes, sir.

MR. SEVERANCE: He is chairman of the board, Mr. Harris?

THE WITNESS: Mr. Harris is still chairman of the board.

By MR. COLTON:

Q. You spoke of buying rails on standard specification, both open hearth and standard Bessemer; is that correct?

A. Yes.

Q. There is a differential between open hearth and standard Bessemer of how much?

A. Two dollars a ton.

Q. Has that been the differential throughout the period with which you have been connected with the purchases?

A. Yes.

Q. Now, in the year 1905, at what time did you become purchasing agent?

A. July 1.

Q. When you became purchasing agent in 1905 had the rail order for the year 1905 already been issued?

A. Yes.

Q. You had nothing to do with issuing that order?

A. No.

Q. Did you have anything to do with the fulfilling of that order. Did that come through your department at all?

A. What do you mean by that?

Q. I mean, after a contract has been placed do you have any knowledge of the deliveries made?

A. Oh, yes.

Q. With what companies, then, was the order for 1905 placed for rails?

A. My recollection is that it was the Illinois Steel Company. That is a long time ago.

Q. Now, for 1906 with what companies was the rail order placed?

A. My recollection is that it was with the Illinois Steel and the Colorado Fuel & Iron Company.

Q. What was the proportion between those companies in the year 1905?

A. I have no recollection.

Q. You have no recollection of the proportion between those companies?

A. No, I don't remember what it was; I would not attempt to carry those things in my head for that length of time.

Q. Do you know who placed that order in the year 1906?

A. No, sir; I do not.

Q. Now, in 1907 with what different companies did you place your rail orders?

A. With the same two companies; that is my recollection now.

Q. Do you know who placed the order for 1907?

A. No, sir.

Q. Do you know the proportions as between those two companies?

A. No, sir; I do not.

Q. Can you not approximate the proportion that was given to the Illinois Steel Company for that year?

A. No; I do not care to make a statement of that kind because it is too far back for me to recollect.

Q. Now, in 1908 your purchase of rails was very small, was it not?

A. I do not remember now what it was.

Q. What different companies did you place your rail order with in 1908?

A. As far as my recollection goes it was with the same two companies. We possibly may have got some rails from some of the eastern companies; I do not remember.

Q. Who placed that order?

A. I cannot answer that question.

Q. Will you give the proportion, if you can, for the year 1908, between the Illinois Company and the Colorado Company?

A. No, I cannot.

Q. Approximately?

A. I do not remember the amount we bought at the time, so I could not tell you; but this much I will say, that it was approximately divided up very near equal between the two companies.

Q. Do you recall that now as a matter of recollection for 1908, or is that based on a general impression extending over the whole period of time?

A. That has been the general rule.

Q. Could you state as a matter of recollection that the Illinois Company had not received for a majority of the years at least 60 per cent. of the rail purchases?

A. That is my recollection, that they have not received that.

Q. How near to the 60 per cent. is it that they have received?

A. Well, it may have been 50 per cent., may have been 45 per cent. and it may have been 55 per cent.

Q. Can you give the tonnages for any year that were placed with the Illinois Company?

A. I can give it for this year.

Q. Give it for 1913.

A. 30,000 tons.

Q. Was that placed at one time with the Illinois Company?

A. My recollection is that we placed 25,000 tons, and added 5,000 tons afterwards.

Q. At what time of the year?

A. I have forgotten just when it was.

Q. Was any other order given at that time?

A. With the Colorado Fuel & Iron Company.

Q. For what tonnage?

A. 30,000 tons.

Q. Was there any other order placed at that time?

A. Yes; we got 5,000 tons from the Lackawanna.

Q. That you spoke of as an experiment on your part?

A. Yes.

Q. In 1909 with what different companies did you place your rail orders?

A. My recollection is that we placed them with the Illinois Steel and the Colorado Fuel & Iron Company. Whether we bought any in the east or not, I do not recall.

Q. Can you give the proportion in that year?

A. No, sir; I can not.

Q. Can you give the tonnage for that year?

A. No, sir; I can not.

Q. Can you state who placed that particular order for that year?

A. No, sir; I can not.

Q. Take the year 1910: with what companies did your company place its orders?

A. With the same two companies. That is my recollection now.

Q. Can you give the proportion between those two companies?

A. No, sir; I can not.

Q. Can you give the tonnage?

A. No, sir.

Q. Can you now, as a matter of recollection, state who placed that order or those orders?

A. No, sir; I can not, but I think I did. I do not recollect whether I did or not.

Q. The president may have done it?

A. He may have done it; yes.

Q. When you had anything to do with the placing of the order, and when the order was not placed by the president, just what was your connection with that order, and with what officials did you consult?

A. The president authorized the purchase of a certain amount of rail, and I consulted with the operating vice-president as to the distribution of the rail.

Q. You consulted with the operating vice-president as to the distribution of the rail tonnage?

A. Yes, sir.

Q. And you two together, then, distributed the tonnage, as nearly as you can recollect, about the same as it had been distributed in the past?

A. Approximately so; yes, sir.

Q. And then it came up to the president and he finally approved and assigned the contracts to the different mills, did he not?

A. Yes, sir.

Q. You and the vice-president on such occasions indicated the mills to which the tonnage was to be given by the company and the president had the final placing of the order; is that correct?

A. No, sir; he signed the contract. The president left that to the vice-president and me. The rules of the company are that the president shall sign contracts for rails and new equipment, as I stated before, but I attend to all the details and I O. K. the contract as to price and so forth, and he signs it.

Q. The vice-president is your superior officer, is he not?

A. Yes.

Q. On the other occasions, when the president makes the contracts and assigns the tonnage among the different mills, do you have anything to do with it, other than just carrying out the details?

A. No; nothing more than that.

Q. In 1911 with what different companies did your company place its rail orders?

A. My former answers cover that, sir.

Q. Do you recollect the proportion between those different companies?

A. No, I do not; not the exact proportion.

Q. Do you recollect who made the contract for that year?

A. No, sir.

Q. Take the year 1912: with what companies was the contract placed?

A. With the Illinois Steel and the Colorado Fuel & Iron Company, as I have stated before.

Q. Do you recollect the tonnage for 1912?

A. Approximately I do, because it was a very large tonnage. That is, I am pretty sure it was in 1912 that we bought about 90,000 tons of rails.

Q. How much of that did you give to the Colorado Fuel & Iron Company and how much to the Illinois Steel Company?

A. That I can not remember.

Q. Can you not give approximately the tonnage that was given to the Illinois Company in the year 1912, Mr. Hopkins?

A. I do not care to make a statement of that kind unless I am positively sure of what I am saying. They got a fair proportion of it. There is no question about that.

Q. Who made the contract for the year 1912?

A. I don't remember now whether I did or whether the president did.

Q. In respect to bridges, you stated that whenever a new company made a bid on work you sent an engineer to look over the shop to see whether it was capable of turning out the work in question, did you not?

A. If I said "made a bid" I should not have said so. I should have said when they asked to be allowed to bid. That was what I intended to say, and the idea I intended to convey.

Q. I was not attempting to quote your exact language.

MR. SEVERANCE: I think that is what he did say, Mr. Colton.

THE WITNESS: That was the idea I intended to convey. I then requested the bridge engineer to send some one to look over those shops, to see whether they were equipped to do the class of work we want.

By Mr. Colton:

Q. Do you know anything about the kind of equipment that is required from the point of view of tonnage to be turned out?

A. Personally?

Q. Or the character of the machinery?

A. No, sir.

Q. How long has it been since you had any one sent to any of the mills of the American Bridge Company?

A. I can not answer that question. Not since I have been purchasing agent.

Q. Can you give the tonnage of bridge material or bridges that were ordered in the year 1911?

A. No, sir; I can not.

Q. Can you give the percentage that was given to the American Bridge Company?

A. In 1911?

Q. Yes.

A. No, sir; I can not answer those questions offhand. I would have to refer to my records.

Q. Can you give the percentage for any year from 1905 to 1913, inclusive?

A. To the American Bridge Company?

Q. That the American Bridge Company received of the total bridge business.

A. I might, approximately, yes.

Q. Well, take it up year by year. As to 1905——

A. I can not do it year by year; no, sir.

Q. Can you do it for any one of the years from 1905 to 1913, inclusive?

A. I frequently have statements made up in my office, and I have the recollection of having a statement made up of bridge material, and the tonnage varied, I think, anywhere from 10 per cent. to—oh, we will say 75, perhaps.

Q. In the year 1912, can you tell what percentage you got from the American Bridge Company? You do not know whether it was 75 per cent. or 10 per cent.?

A. Oh, I know it was not 75 per cent., and I know it was

greater than ten in that year, but as to exactly what it was, I do not know.

Q. Have you any recollection as to the figures for 1912?

A. No, sir.

Q. For the year 1913?

A. No, sir.

Q. For what purposes do you use cut nails?

A. Oh, they are used for a great many different purposes.

MR. COLTON: Will you read the question.

(The question and answer were read by the stenographer.)

By MR. COLTON:

Q. You are speaking of use by your company?

A. Yes, sir.

Q. That is what I mean. Would you give some of them?

A. Well, they can be used in building work.

Q. Does your company use them in building work?

A. We do a lot of station work, yes, and buildings of that kind.

Q. I asked you did you use cut nails in that?

A. I think they do, sir, yes.

Q. Do you know?

A. Positively, no, I do not know. I do not know just the exact purposes for which all these nails are used, only in a general way.

Q. Cement coated nails, for what purpose, if you know, does your company use cement coated nails?

A. They are used largely in car repair work.

Q. That is the only purpose you know of?

A. They may be used for other purposes, sir.

Q. But you do not know that as a matter of your own knowledge?

A. No, I do not.

Q. Now, you buy what are known as common nails or standard nails, in addition to cut nails and cement coated nails, do you not?

A. You mean wire nails?

Q. Yes, wire nails.

A. Yes, we buy wire nails.

Q. Do you know or can you state from knowledge for any year the percentage of common wire nails that you have gotten from the American Steel & Wire Company?

A. No, sir; I cannot.

Q. Can you give the approximate tonnage that you bought of common wire nails in any one year?

A. No, sir; I cannot.

Q. Can you give the approximate tonnage you got from the American Steel & Wire Company in any one year?

A. No, sir.

Q. Can you state the prevailing price for common wire nails for any year?

A. No, sir; I do not attempt to carry the prices in my head at all.

Q. Take the year 1905 in common wire nails; from what different companies did you solicit their bids for your common wire nail purchases?

A. I cannot answer that question, sir.

Q. 1906?

A. I cannot answer.

Q. 1907?

A. The same.

Q. 1908?

A. The same answer. We solicit bids from all of these companies.

Q. I want to know from what companies you solicited bids that you can now state that you did it, as a matter of recollection?

A. I could not do that unless I looked up my records. I could not state that positively.

Q. Did you solicit the bids yourself for common wire nails, or was that done by your subordinates?

A. Why, it is done under my supervision, of course, but I do not actually buy everything. I have an assistant. I have three men in my office who do a great deal of buying, but it is passed upon by me.

Q. Take the year 1906, the assistants that you have who do a great deal of the buying, do they take bids and solicit prices, and then make a recommendation, and put it up to you?

A. The inquiries are sent out by them or by one of the clerks in the office, with my approval.

Q. Now, before those inquiries are sent out for common wire nails, are they submitted to you—the inquiries?

A. Not always, no.

Q. Are they submitted to you in the form that they are returned to your various assistants?

A. Yes.

Q. In the precise form?

A. Yes, sir.

Q. Can you recollect for the year 1906 that for all purchases of common wire nails the inquiries were submitted to you by your various assistants?

A. I cannot say offhand. There may have been times when they were not. As a general rule, they were.

Q. At times your assistants had authority to make certain purchases, did they not?

A. If I was not there, yes.

Q. Well, if you were there?

A. It depended on circumstances. If I was very busy and it was necessary to close a deal, my assistant purchasing agent would close it. Nobody else——

Q. (Interposing) Your assistant purchasing agent is a man in whom you repose a great deal of confidence?

A. Yes, sir.

Q. And in certain matters of purchases he has large discretion?

A. He refers practically everything to me before any deal is closed.

Q. And no matter how small it may be?

A. Oh, no, I will not say that. There may be some small matter—I am speaking in a general way of large purchases; something that amounts to something.

Q. Do you undertake to say whether the tonnage in common wire nails in 1906 was small or large?

A. No, I cannot answer that question.

Q. Can you answer that for any of the years as regards common wire nails?

A. No; not offhand.

Q. You have no recollection now as to the variation in prices bid by the manufacturers of common wire nails in the year 1906, have you?

A. No, sir.

Q. Is the same true of each year?

A. Yes; I do not attempt to carry prices in my head. We do a large business, sometimes $30,000,000 a year, and I would not attempt for a moment to burden my mind with a thing of that kind; I could not.

Q. Do you purchase $30,000,000 of steel products a year, do you mean?

A. No, I am talking about everything that passes through me.

Q. It all passes through you?

A. It all passes over my desk in one way or another; fuel, rail, ties.

Q. And timber?

MR. SEVERANCE: Yes; he said "ties."

THE WITNESS: Yes, and lumber of all kinds.

By MR. COLTON:

Q. That constitutes a very large proportion of your purchases?

A. We buy a great deal of lumber. We have bought as high as 60,000,000 or 70,000,000 feet of lumber in a year.

Q. Could you name the different companies from whom you took bids for any of the years on common wire nails?

A. I would not attempt to.

Q. Take plates; do you buy tank plates as well as boiler plates?

A. Yes.

Q. What percentage of your purchases are tank plates?

A. I couldn't answer that question, sir.

Q. Can you approximate the percentage that is tank and the percentage that is boiler plate?

A. No, sir; I could not.

Q. Now, in the year 1906, have you any recollection as to the extent to which the various manufacturers of tank plates quoted on any occasions uniform prices or varying prices, or

the extent to which they varied, or the number that quoted the same price on a given bid?

A. I do not know that anybody quoted the same price in 1906 on any given bid.

Q. You have no recollection on the subject, have you?

A. No, sir; I could not answer that question for any specific year.

(The question was repeated by the stenographer.)

THE WITNESS: There are a lot of questions there all in one. No, I could not answer that question.

By MR. COLTON:

Q. For 1907 would your answer be the same?

A. Yes.

Q. For 1908?

A. Yes.

Q. And for 1909?

A. Yes.

Q. If you do not understand the question I will have it reread, or can you answer any part of that question?

A. As I understand your question you have asked me whether I know for any particular year whether certain industries bid on tank plates; is that right?

Q. Yes.

A. Bid the same price?

Q. That was one of the questions.

MR. SEVERANCE: Or if they varied, and the extent of the variation.

THE WITNESS: Or if they varied, and the extent of the variation. No, I can not answer that for any particular year.

By MR. COLTON:

Q. What is the first year as to which you now remember as a matter of recollection, a variation between any manufacturers on tank plates?

A. I can not answer that question.

Q. You have no recollection on the subject one way or the other?

A. I have no recollection of the time.

Q. You do not now recollect whether that occurred in any year or not?

MR. SEVERANCE: Whether what occurred?

By MR. COLTON:

Q. You said you had no recollection of the time; what did you mean by that?

A. Of any particular time.

Q. Nor of any particular years?

A. Yes.

Q. You mean that you do not recollect?

MR. SEVERANCE: Let us understand just what you are asking him, Mr. Colton. Will you kindly tell what that last question of your refers to?

MR. DICKINSON: This is as to his answer "yes," as to whether he had or had not any recollection of these various things.

MR. COLTON: He answered "yes," and it should be "no." I think.

MR. SEVERANCE: Let us have the original question read.

(The original question was repeated by the stenographer as follows:)

"Q. Now, in the year 1906, have you any recollection as to the extent to which the various manufacturers of tank plates quoted on any occasions uniform prices or varying prices, or the extent to which they varied, or the number that quoted the same price on a given bid?"

MR. SEVERANCE: That question as put to him involved four or five or six things, and you evidently asked him whether he had any distinct recollection of any of those matters, and he said "no." That is as I understand the testimony; I may be wrong. Is not that the fact?

THE WITNESS: I want to say that I have no recollection of that having occurred in any particular year. You have not asked me whether I knew that ever occurred. I want to be perfectly plain. I do not want to say anything that is not exactly right, and as I understand it, you have not asked me that question.

By MR. COLTON:

Q. If you now remember that it occurred at any time, state the time as nearly as you can recall it, and the parties.

MR. SEVERANCE: As to what occurred?

MR. COLTON: Uniformity of prices among certain of the bidders on tank plates.

THE WITNESS: My recollection now is that that has occurred. When and who the parties were I could not say.

By MR. COLTON:

Q. And you can not now state as to how often that occurred in the year 1906?

A. I could not state that for any year.

Q. Would your answers be the same as regards boiler plate, the answers that you have just made in reference to tank plate?

A. No, because I have no recollection about boiler plate.

Q. Would you explain that answer that you have no recollection about boiler plate?

A. I have no recollection of there being any uniformity of price.

Q. Do you have any recollection on the subject one way or the other?

A. What do you mean exactly by that?

Q. I mean have you any recollection as to whether or not there were times when boiler plate manufacturers agreed as to price?

A. I don't know whether they agreed as to price or not.

Q. I mean whether the prices given to you agreed or not; have you any recollection on that subject?

A. No, I have not, as to boiler plates.

MR. COLTON: I do not know that you understand the question yet. Did you understand the question?

MR. SEVERANCE: Let the questions and answers be read.

(The stenographer read as follows:)

"Q. And you cannot now state as to how often that occurred in the year 1906?

"A. I could not state that for any year.

"Q. Would your answers be the same as regards boiler plate, the answers that you have just made in reference to tank plate?

"A. No, because I have no recollection about boiler plate.

"Q. Would you explain that answer, that you have no recollection about boiler plate?

"A. I have no recollection of there being any uniformity of price.

"Q. Do you have any recollection on the subject one way or the other?

"A. What do you mean exactly by that?

"Q. I mean, have you any recollection as to whether or not there were times when boiler plate manufacturers agreed as to price?

"A. I do not know whether they agreed as to price or not.

"Q. I mean, whether the prices given to you agreed or not; have you any recollection on that subject?

"A. No, I have not, as to boiler plates."

By Mr. Colton:

Q. Do you understand the question?

A. Yes.

Q. Do you want to add anything to your answer?

Mr. Severance: It is all right. I understand it now. I did not catch it.

The Witness: As I stated, I do not remember about that.

By Mr. Colton:

Q. Now, take tie plates: Do you know what per cent. of tie plates you bought from the Illinois Steel Company?

A. For any given period?

Q. For the entire period, if you have any approximate estimate of it.

A. Approximately 33 1-3 per cent.

Q. Do you know what it was in 1906?

A. No, sir.

Q. Is there any other company from whom you have purchased as large a proportion of your tie plates as from the Illinois Company?

A. Yes, sir.

Q. What was it?

A. The Inland Steel Company; and we have purchased from the Interstate Iron & Steel Company.

Q. Not as large a proportion from both of those, have you?

A. I did not say at the same time.

Q. Oh, at times?

A. At times; and also from the Sellers Manufacturing Company.

Q. Suppose we take it by years, if you can?

A. I cannot give you that by years.

Q. You cannot give it approximately for any year?

A. Approximately, yes. Possibly I could, but not too far back.

Q. We will try it, and see how far back you can go. In 1906, can you state approximately how much of your tie plates you gave to the Illinois Company?

A. No, sir; I cannot. I do not know that we gave them any.

Q. 1907?

A. No.

Q. 1908?

A. No.

Q. 1909?

A. No.

Q. 1910?

A. No.

Q. 1911?

A. I want to say that I think we have given them about 33 1-3 per cent.

Q. Now we are taking it by years. 1912?

A. I think I can safely say 33 1-3 per cent. for 1912.

Q. For 1912 what other company did you give as much as 33 per cent.?

A. The Interstate Iron & Steel Company.

Q. Did you give them 33 per cent. or more than 33 per cent.?

A. I have forgotten now how much we did give them.

Q. What were the other companies you gave your tie plate contracts to?

A. In 1912?

Q. Yes.

A. I don't remember now.

Q. In 1913?

A. In 1913 I can come pretty close to it. We gave them to the Illinois Steel and the Inland. I should say they got about 33 1-3 per cent. each.

Q. And the rest was given——

A. We divided the rest up between the Sellers Manufacturing Company and the Interstate Iron & Steel Company.

Q. Did all those companies bid on your tie plates for 1913?

A. I asked them all for prices, yes, sir.

Q. Were all those contracts let at different prices or at the same price?

A. The first contracts were let to the Illinois Steel and the Inland at the same price, and then I found we did not have enough, and I had to pay a little more to the other companies.

Q. In 1912 do you now recollect whether the contracts that were let to the Inland and Illinois Companies were made at the same price or not?

A. I cannot say, no.

Q. At the time the purchases were negotiated of which you gave 33 1-3 per cent. to the Inland and 33 1-3 per cent. to the Illinois at the same price, can you give, as to any of the other companies, their bids on those particular occasions?

A. Can I do what?

Q. Can you give their bids on those particular purchases?

A. Yes; their bids were, I think, about a dollar a ton higher, or something like that.

Q. Who were those two?

A. The Interstate Iron & Steel Company and the Sellers Manufacturing Company.

Q. That is what I had understood you to say, that there were but two others that bid on that.

A. Those were the only ones.

Q. In 1912 can you now state, as a matter of recollection, what companies bid on tie plates?

A. All four of those companies, yes; that is my recollection.

Q. Did you make that all at one purchase?

A. In 1912?

Q. Yes.

A. I don't remember now whether I did or not.

Q. In tie plates do you usually make most of your purchases at one time?

A. We usually make a contract for the whole of that at one time.

Q. You sort of calculate out your needs?

A. I get an estimate from the operating department as to how many they want. They give me approximately what they want and I make the contract elastic, with a minimum and a maximum.

Q. About what time of the year is that?

A. About this time. Last year I made it in September.

Q. Have you placed any contract yet for the following year?

A. No, sir.

Q. In 1912 can you give the bids of the different companies?

A. No, sir; I cannot; not offhand.

Q. Do you now recollect the relations of those different bids to each other?

A. No, sir.

Q. How many different companies did you distribute your tonnage among in the year 1912?

A. I would like to modify my last answer. Will you ask me that question again?

(The stenographer read the question referred to as follows:)

"Q. Do you now recollect the relations of those different bids to each other?"

THE WITNESS: I will say that as far as my recollection goes I did not pay one any more than the other.

By MR. COLTON:

Q. That is, they were at the same price, so far as you recall?

A. Yes.

Q. Was that the same for 1911?

A. I cannot answer that question, but I think probably it was.

Q. And you do not know what the original bids of the companies were in 1912?

A. No, sir; I do not.

Q. And you don't know what the relation of the prices on the original bids was, if there were more than one in 1912?

A. No, sir; I cannot recall that.

Q. Would your answer be the same for the Inland Company for 1913,—the Inland and the Illinois Steel Company—as to what their original bids were, as to whether they were the same or not in the original bid?

A. I don't recollect whether they were or not.

Q. What tonnage do you buy of tie plates?

A. Oh, it varies from 10,000 to 15,000 tons.

Q. That is one of the largest items outside of rails, is it not?

A. It is quite a large item, yes. The use of tie plates is increasing very much in late years.

Q. Are angle bars and splice bars the same thing?

A. Yes, sir.

Q. From what different companies do you purchase angle bars and splice bars?

A. The Illinois Company and the Colorado Fuel & Iron Company.

Q. How have you distributed your tonnage between those two different companies?

A. According to the amount of rails that they got.

Q. About the same relation as rails?

A. Yes, sir.

Q. And you bought exclusively from those two companies in angle and splice bars?

A. Yes, sir.

Q. Were those let at the same prices or at different prices?

A. There was a shade of difference last year.

Q. Well, prior to last year?

A. Prior to last year, my recollection is they were the same. I will not say, though, positively. That is my recollec-

tion. Angle bars generally follow rail. They are about the same price.

Q. As I understood it, to the best of your recollection prior to last year the prices on angle bars and splice bars were the same for the Illinois as they were for the Colorado; is that correct?

A. I think they were; yes, sir, as far as I can recollect.

Q. This last year there has been a shade of difference?

A. They was a slight difference.

Q. Do you know what the difference was, per ton?

A. Well, it was very small. My recollection now is it was about two cents a hundredweight. It did not amount to anything.

Q. Which one had the lower price?

A. The Colorado Fuel & Iron Company.

MR. SEVERANCE: Let me ask: Are those sold by the long or short ton?

THE WITNESS: Why, they are sold at so much a hundredweight.

MR. SEVERANCE: So much a hundredweight?

THE WITNESS: They are not sold by the ton.

By MR. COLTON:

Q. Did you get bids for any of the years from 1905 to 1912, inclusive, from any other companies than the Colorado Company and the Illinois Company on angle bars and splice bars?

A. I do not recollect that we did, sir.

Q. From what companies have you bought your spikes?

A. Well, we have bought spikes from the Illinois Steel Company and the Colorado Fuel & Iron Company. We have bought spikes from the Inland Steel Company.

Q. In 1906, with what different companies did you place your orders for spikes?

A. I can not answer that.

Q. Do you recollect whether you gave any order for spikes to the Illinois Company in 1906?

A. I presume we did; we usually did.

Q. Do you recollect that you gave any order to the Colorado Company in that year for spikes?

A. No, I do not.

Q. Or the Inland Company?

A. No, I do not recollect as to that.

Q. Now, take the year 1907; did you give any order to the Illinois Company for that year?

A. I think so; yes.

Q. Do you recollect whether you gave any order to the Colorado Company?

A. 1907?

Q. Yes.

A. I do not remember.

Q. To the Inland Company?

A. I do not remember that either.

Q. Now, in 1908, would the answers be the same?

A. Yes.

Q. 1909?

A. Yes.

Q. 1910?

A. You are getting closer now, and I am trying to refresh my memory. I think we gave the Colorado Fuel & Iron Company some spikes then. I could not answer positively. We did not always give them spike orders, because they did not always get in under the wire, so to speak.

MR. SEVERANCE: What does that mean, "get in under the wire"?

THE WITNESS: They did not have as low a price.

By MR. COLTON:

Q. From 1906 to 1908, do you now recollect that you took bids from the Colorado Company for any one of those different years?

A. Why, I think we did; we usually did.

Q. You do not remember now, as a matter of recollection, that you did?

A. No; I could not say positively, but, under the general rule I follow, I assume that we did.

Q. Now, in 1910, when, to the best of your recollection, you placed part of it with the Colorado and part with the Illinois, did you place it at the same price?

A. I do not remember that.

Q. Do you remember what relation the bids bore to each other on the original bid?

A. No, I do not.

Q. Would your answers be the same for 1911?

A. Yes.

Q. Is it your best recollection that you did give part of it to the Colorado Company in 1911?

A. I think we did.

Q. Would your answers be the same for 1912?

A. Yes.

Q. 1913?

A. I have answered that.

Q. In regard to spikes?

A. Did I not?

MR. SEVERANCE: Yes, he did.

By MR. COLTON:

Q. You gave it to all three in 1913?

A. Yes; that is my recollection.

Q. And at what price?

A. I have forgotten what the price was.

Q. Was the price the same for each of the different companies?

A. I can not answer that question; I have forgotten.

Q. Do you recollect whether there was any variation in the bids of those three companies on their original bids?

A. Not now; no, sir.

Q. What tonnage do you buy of spikes annually?

A. Oh, we buy anywhere from 30,000 to 40,000 kegs.

Q. 30,000 to 40,000 kegs?

A. Yes.

Q. How many hundredweight would that be?

A. 200 pounds to a keg.

Q. About what does that represent in money?

A. That represents about anywhere from—per keg, you mean?

MR. DICKINSON: No, the whole amount.

By MR. COLTON:

Q. Yes, the whole amount; your annual purchases in spikes.

MR. SEVERANCE: How many kegs did you say there were?

THE WITNESS: 30,000 to 40,000 kegs.

MR. SEVERANCE: It is a matter of computation. He can tell you the average price.

By MR. COLTON:

Q. What is the average price?

MR. COLTON: It would be better if he would give us about the amount.

MR. SEVERANCE: I was going to have him figure it.

THE WITNESS: Oh, perhaps $100,000.

By MR. COLTON:

Q. And what is the approximate cost per hundredweight for spikes?

A. Oh, they vary from $1.50 to $1.75, and along up as high as $1.90, and maybe more.

MR. SEVERANCE: Per hundred or per keg?

THE WITNESS: Per hundredweight.

MR. SEVERANCE: 200 pounds in a keg?

THE WITNESS: Yes, 200 pounds in a keg.

MR. SEVERANCE: How much did he give as the approximate amount of those purchases?

MR. COLTON: 30,000 to 40,000 kegs.

MR. DICKINSON: He said $200,000.

THE WITNESS: No, $100,000.

MR. DICKINSON: $100,000?

THE WITNESS: Yes.

MR. DICKINSON: I thought you said $200,000.

THE WITNESS: No, $100,000.

By Mr. Colton:

Q. At about what price do tie plates sell? Of course, it varies?

A. Oh, yes; it varies all the way from—they have varied from $28 a ton up to as high as, I think, last year tie plates went up to $33 to $35 a ton.

Q. About what does your annual purchase amount to, in money value, in tie plates?

A. Well, as I stated, we buy anywhere from 10,000 to 15,000 tons. You can multiply that by 28. That is what we paid for them last year—for the largest amount.

Q. What would your tonnage in tank plates amount to?

A. I cannot answer that question.

Q. What would the money value of them amount to per year?

A. I do not know that either.

Q. Boiler plates?

A. I cannot answer that question.

Q. Can you approximate it?

A. No, I cannot.

Q. If you combine boiler plates and tank plates, and take those plates together, can you approximate the tonnage?

A. No, sir; I cannot.

Q. For any year?

A. No, sir.

Q. For the year 1913?

A. No, I do not remember what we bought.

Q. Can you approximate your tonnage in wire goods?

A. No, sir.

Q. For any year?

A. No, sir.

Q. Or the money value for wire goods in any year?

A. No, I cannot. I would have to go back to my records to get that.

Q. Your bolts are mostly iron, I understood you to say?

A. Yes, they are. You are speaking of track bolts?

Q. Well, I am speaking of all the different characters of bolts you buy.

A. Well, when we were talking about bolts we were talking principally of track bolts.

Q. Those are mostly iron, I understand?

A. Yes.

Q. Are there other kinds of bolts that you buy?

A. Oh, yes; we buy machine bolts and carriage bolts, and various kinds.

Q. About what tonnage of bolts of that character—of steel bolts—do you buy?

A. You mean of track bolts?

Q. No; I mean of all kinds of steel bolts.

A. Well, we buy very few steel bolts. They are practically all iron. As I stated, I want to be clear. The only steel bolts that I know of that I have any recollection of buying are a few track bolts of the smaller size.

Q. You do not recall the prices of your steel bolts, do you?

A. No, not offhand.

Q. Take sheets. In 1906 from what different companies did you solicit bids?

A. I could not answer that question.

Q. Would your answer be the same for each of the years from 1906 to 1913, inclusive?

A. We solicited—as I testified, we solicited business from practically all of the sheet people in business.

Q. Now, let us see if that is the case.

A. That is my recollection.

Q. Yes. Could you name the different companies that are in the business?

A. No; I could not, offhand. That is impossible.

Q. Have you any idea what companies were in business in 1906 manufacturing sheets besides the American Sheet & Tin Plate Company?

A. I presume all of the companies that are in business now were in business then.

Q. Do you have any recollection as to what companies were manufacturing sheets in 1906?

A. Well, I presume the same companies that are manufacturing now.

Q. That is just a presumption on your part?

A. I am very sure they are.

Q. Have you a recollection that the companies now manufacturing sheets were making sheets then?

A. I do not know positively, no.

Q. Do you know anything about it; I mean as a matter of personal knowledge?

A. That all the companies manufactured? Not as a matter of personal knowledge.

Q. I wish you would name just as many companies as you know of who were manufacturing sheet in 1906, and what they were.

A. I could not answer that question without reference to my records.

Q. In 1907 from what different companies did you solicit bids on sheet?

A. I will have to answer the same thing; I cannot carry all those things in my head.

Q. Can you recollect any other company in 1907 than the American Sheet & Tin Plate Company?

A. In 1907?

Q. Yes.

A. I testified that we sent out bids to various companies here. You have a record of that.

Q. I am now asking you, though, for what companies you recollect, other than the American Sheet & Tin Plate Company, from whom you solicited bids in 1907, if you recollect any companies.

A. I could not state for 1907.

Q. Did you solicit bids from the American Sheet & Tin Plate Company in 1907?

A. I do not know; probably we did, but I am not sure.

Q. Haven't you regularly solicited bids from the American Sheet & Tin Plate Company?

A. As a rule, yes.

Q. Do you know any year that you didn't solicit bids from the American Sheet & Tin Plate Company?

A. I have no recollection of that.

Q. Take the year 1908. From what companies did you solicit bids for sheets?

A. I cannot answer that question.

Q. Can you name any companies from which you did solicit bids for sheets?

A. In 1908?

Q. Yes.

A. No, sir.

Q. In the year 1909?

A. I cannot give you those answers unless I look up my records.

Q. In 1910?

A. Just the same.

Q. And 1911?

A. I will answer the same way.

Q. In 1912?

A. My recollection is that in 1912—I assume that we gave——

Q. (Interposing) I do not want any assumption; I want your recollection if you have any.

A. Of whether we asked these different companies to bid?

Q. I want now what companies you now recall that you solicited bids from, if you do recollect that you solicited bids from any particular company, and give the name of it.

A. I do not recall the particular companies. We solicited bids from practically all these companies that were in business.

Q. You cannot name a single company, and state now, as a matter of recollection, that you solicited bids from it in 1912?

A. Only as I have stated, that we were in the habit of soliciting bids from all of them.

Q. And in 1913?

A. The same answer.

Q. Do you recollect that you got bids from the American Sheet & Tin Plate Company in 1913?

A. Why, yes.

Q. Do you recollect any other company besides the American Sheet & Tin Plate Company from whom you solicited bids?

A. We got bids from all these various companies I have spoken of.

Q. Name any company that you now recollect that you got bids from?

A. I cannot answer.

(The question was repeated by the stenographer.)

THE WITNESS: What year is that for?

MR. SEVERANCE: The present year.

By MR. COLTON:

Q. That is for 1913, besides the American Sheet & Tin Plate Company; you have already named that.

A. We got bids from Ryerson, bids from the Inland Steel Company, Jones & Laughlin; that is my recollection.

Q. Are you sure you got any bids on sheet from Jones & Laughlin in the year 1913?

A. I think so.

Q. How many purchases of sheet did you make in 1913?

A. I could not answer that question.

Q. At what time in the year did you make your sheet purchases?

A. We make them right straight along through the year.

Q. You had a large number of transactions for that year in sheets?

A. Quite a few, yes.

Q. Can you now recall upon how many of those Jones & Laughlin bid?

A. No, sir.

Q. Can you now recall upon how many of those the Inland bid?

A. No, I cannot.

Q. Or Ryerson?

A. No.

Q. Or the American Sheet & Tin Plate Company?

A. On how many purchases?

Q. How many of those the American Sheet & Tin Plate Company bid on?

A. I don't remember just how many.

Q. Have you any recollection for the year 1906 as to which

manufacturers bid the same price in sheets, if there were any that bid the same price?

A. I do not recall anything of that kind.

Q. You have no recollection on the subject one way or the other?

A. In 1906? No, I have not.

Q. Have you any recollection as to the relation of the prices of the different bidders on sheets for the year 1906?

A. No.

Q. Would your answer be the same for 1907?

A. Yes.

Q. And for 1908?

A. Yes.

Q. 1909?

A. Yes.

Q. 1910?

A. Yes.

Q. 1911?

A. Yes.

Q. 1912?

A. Yes.

Q. 1913?

A. Yes; I will not commit myself unless I look at my records.

Q. Did you buy turntables during 1913?

A. I don't remember whether we did or not; I don't think so.

Q. Did you buy any turntables in 1912?

A. I cannot answer that question.

Q. Do you know what percentage of your turntables you bought from the American Bridge Company during 1912?

A. I don't think we bought any; that is my recollection, but I do not know.

Q. Did you buy any from anybody?

A. In 1912?

Q. Yes.

A. I think we did.

Q. From whom?

A. From the Chicago Bridge & Iron Works; I don't remember.

Q. Are you sure you bought any turntables in 1912 from the Chicago Bridge & Iron Works?

A. I am not positive about it, but I think we did; we do not buy very many.

Q. You buy a small amount of them?

A. Just a few; it is a trivial matter.

Q. Do you have no recollection as to the comparative variation in prices between the different manufacturers of sheets and plates, for example, for any of the years?

A. Oh, it would vary anywhere, I would say, from one to two dollars a ton; that is my recollection.

Q. That is the difference between sheets and plates you are speaking of?

A. No, I didn't say that; I didn't understand you.

MR. SEVERANCE: What did you mean by that answer? I would like to have it clear, as it is important. Just state what you meant. You meant between bids?

THE WITNESS: Between bids.

MR. COLTON: Read the question.

MR. SEVERANCE: May I be pardoned? I understood the question.

MR. COLTON: I do not think the witness caught the question.

By MR. COLTON:

Q. (Continuing) I want you to compare the apparent uniformity or lack of uniformity on plates and sheets, if you have any recollection one way or the other.

A. I do not recall between the two; I thought you had reference to the different bids on those two different articles.

Q. For what year?

A. For no particular year.

Q. Have you any recollection for any year?

A. No, no particular year. I give that as a general answer. They vary anywhere from $1 to $2 a ton.

Q. Do you mean to say that in the case of plates there was any such variation in the year 1906?

A. I could not answer that question; I think so.

Q. Do you have any recollection on the subject one way or the other?

A. I would not be positive without looking up my records, but that is my general recollection of the situation.

Q. Do you know the price on plates for any of the time?

A. No.

Q. You do not know how many of them quoted the same price for those years, 1906 and 1907?

A. No, I do not.

Q. And if there was a variation of a dollar or two a ton on plates, it might have been one company or two companies that varied from the other companies?

A. Yes.

Q. Now, have you any recollection—what I intended my question to be was, it may not have been clear—have you any recollection as to the comparative uniformity in prices of plates and sheets?

A. I could not answer.

Q. You do not know whether there is a greater variation, whenever there is a variation in price, in sheets than there is in plates as between different manufacturers?

A. No, sir; I could not answer that; I do not think so.

Q. You have no direct recollection as to the number of manufacturers that quoted the same prices in sheets and the number that quoted different prices in sheets?

A. No, I do not; I have had bids where the prices were the same; not all of them, but that is rather unusual.

Q. That did occur in respect to sheets at various times?

A. Not very often; it has occurred.

Q. It has occurred; now, can you state the number of times it has occurred in any given year?

A. No, sir; I could not, nor any particular year.

Q. You were then speaking of sheets, were you not?

A. I was speaking of sheets and plates.

Q. Now, in reference to plates, do you undertake to say that in the year 1906 there was not a large number of occasions on which a number of manufacturers quoted the same price on plate?

A. I couldn't answer that question; I don't remember.

Q. Would your answer be the same for 1908 and 1909?

A. I cannot answer for any particular year.

Q. Don't you know even that there was a severe cut in plates in 1909?

A. There have been several very severe cuts.

Q. Can you name any of the severe cuts that have taken place?

A. I don't remember the dates.

Q. Do you remember the year.

A. No; I don't remember the year.

Q. Do you place your order on plates at a single time?

A. No, sir.

Q. How many orders do you place in plates?

A. Oh, we buy them as the requisitions come in. They come in frequently.

Q. Was that the practice in 1906?

A. Yes.

Q. How many times did you place plate orders in 1906?

A. I can not answer that question.

Q. Have you any idea?

A. No, sir.

Q. Have you any idea for 1907?

A. No.

Q. For 1908 and 1909?

A. I have not any idea for any particular year, because, as I say, the requisitions are coming in every day.

Q. Can you give the money value of the plates for any of those years?

A. No, sir; I can not.

Q. Approximately?

A. No, sir.

Q. Were your plate purchases large or small?

A. That depends upon circumstances. Some years they are larger than others.

Q. What would be the money value of plates in your largest years?

A. I can not answer that question.

Q. Can you give any approximate estimate?

A. No, sir.

Q. And you can not now state, as a matter of recollection, the approximate number of times that there were two or three or more manufacturers quoting the same price on plates for any one of those different years?

A. No, sir; I can not; but my records will show it all right.

Q. And there were occasions in plates, were there not, where two or three or more quoted the same price?

A. I have a recollection of something of that kind; yes, sir.

MR. COLTON: That is all.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. I understood you to say a moment ago that while at times some of the people would quote the same price, that that was unusual?

A. Yes; it is rather unusual.

MR. COLTON: What product are you speaking of?

MR. SEVERANCE: I am speaking of the thing about which you have just been examining—plates and sheets; that is what you have been asking him about, plates and sheets, and that is what he gave his testimony about.

MR. COLTON: You did not call his attention to that at the time. He has spoken of rails and spikes and plates and sheets, and I don't think the witness knew what he was answering there.

THE WITNESS: I assumed that is what he meant.

MR. SEVERANCE: That is what you have just been talking about.

MR. COLTON: I would like to have the question and the answer read.

(The stenographer read as follows:)

"Q. I understood you to say a moment ago that while at times some of the people would quote the same price, that that was unusual?

"A. Yes; it is rather unusual."

MR. SEVERANCE: You had just been talking to him about sheets and plates, and my question is directed to sheets and plates—the thing about which you have been examining him.

By MR. SEVERANCE:

Q. You have been asked by counsel to name the sheet mills that were in existence in 1906 and various other years shortly after you became the purchasing agent, and you stated that you could not name the identical mills. Is it or is it not a fact that since you have been purchasing agent of the Burlington Road there have been a large number of sheet mills in business who have been quoting prices to you?

A. Yes, sir.

Q. Is it or is it not a fact that you are frequently waited on by soliciting agents of different mills?

A. Yes, sir. They make life a burden to me, sometimes.

Q. How long has that been the case?

A. Ever since I have been purchasing agent.

Q. How frequently do the soliciting agents for the various steel mills and commission men or brokers and jobbers of steel call on you to solicit business?

A. If he is a good lively man, he is around there usually about once a week; maybe more, maybe less. My door is open to anybody. I encourage them to come, although it is sometimes rather trying. However, I encourage them to come.

Q. Are there a good many or only a few of these gentlemen?

A. Oh, there are a great many.

Q. Do or do not the various steel mills have agencies in Chicago?

A. A great many of them do. Yes; they have agencies. For instance, as an example, when I spoke of this man Theodore Geissmann, he represents mills, and there are a great many other railway supply concerns, as they call themselves; they are innumerable, and they represent different mills of different kinds.

Q. Do these gentlemen who represent the different mills

at times come in and quote you prices without being previously solicited so to do?

A. Oh, yes.

Q. Is not that a rather usual thing—for them to come in looking for orders?

A. Yes; a great many of them come in looking for orders. They do, yes. They come in frequently.

Q. You stated, in answer to counsel, that last year there was a difference of about two cents a hundred in the price you paid for angle bars, and that previous to that it is your recollection that you paid the same prices?

A. Yes, sir.

Q. Do you recall, now, whether the prices quoted you for angle bars, when the quotations were originally received, were the same, or merely that you paid the same price when you came to make your contracts?

A. For what year, Mr. Severance?

Q. Previous to last year. You said you paid the same price.

A. My recollection is that the quotations were the same. That is my recollection.

Q. You say the angle bars are usually sold with the rails?

A. Yes. As a rule—you might say it is universal—we give the Illinois Steel Company, we will say, 30,000 tons of rail, and we give them the angle bars for that amount, and the same with the Colorado Fuel & Iron Company; but, for instance, we do not give the Lackawanna any angle bars. That would mean a long haul. I mean, we would have to pay the difference in freight. If we buy any rail in the east, that tonnage of angle bars will go to the Illinois Steel Company, naturally, because that rail will be distributed east of the Missouri River, and there will be a shorter haul.

Q. In the general run of steel products, outside of rails and angle bars, would you say that it is usual or unusual for the different mills to quote you uniform prices?

MR. COLTON: I object to that on the ground that it calls for the witness to give a conclusion as to a great number of products, and that he can scarcely have all of these different

products in his mind, even if he ever knew the prices and variations in them; also on the further ground that it is re-examination on what you have already examined him on during the direct examination.

(By request of the witness the stenographer repeated the pending question as follows:)

"Q. In the general run of steel products, outside of rails and angle bars, would you say that it is usual or unusual for the different mills to quote you uniform prices?"

THE WITNESS: It is unusual.

By MR. SEVERANCE:

Q. And has that been so during all the time you have been purchasing agent?

A. Yes, sir.

Q. You have said that you made sheet purchases and plate purchases a great many times during the year; as I understood you, as fast as requisitions came in?

A. Yes.

Q. Is that true as to most of your purchases, aside from rails? That is, do you make them from time to time?

A. Yes; we do, except where we have contracts, and then, of course, we place the orders just the same as the requisitions come in.

MR. SEVERANCE: That is all.

RECROSS EXAMINATION

By MR. COLTON:

Q. Take up the question of plates: do you mean to state, as a matter of recollection, that in the year 1906 it was unusual for a considerable number of manufacturers to quote the same price on plates?

A. That is my recollection.

Q. Do you have any recollection about 1906 as to the number that quoted the same price and the number that quoted different prices at different times?

A. No, sir; I cannot answer that question.

Q. Have you any recollection as to the number that quoted

the same price or different prices in respect to plates during the year 1907?

A. No, sir; not the exact number. I cannot answer that question.

Q. I do not mean the exact number, but I mean——

A. I want to make myself perfectly clear: the bids come in and are placed on my desk and, naturally, if there are a number of quotations the same, my attention would be drawn to it; very naturally. That has happened——

Q. In plates?

MR. SEVERANCE: One moment, Mr. Colton; let the witness finish.

THE WITNESS: But when, and to what extent I cannot answer.

By MR. COLTON:

Q. You cannot answer the extent to which it has happened in plates for any of the years 1906, 1907, 1908, 1909 or 1910?

A. No, sir.

Q. Or the extent to which it did not happen during those years?

A. As I testified, it was unusual. Therefore the extent that it did not happen would naturally be very much greater than the extent to which it did happen.

Q. Do you carry in your mind any events for any of the years 1906——

A. (Interposing) Any events?

Q. Wait until I finish the question. Do you carry in your mind any event—any transactions or events for any of the following years which enable you to say the extent to which the different manufacturers, two or more of them, quoted the same price on plates?

A. No.

Q. Is that true for all years?

A. Yes.

Q. Do you not know, as a matter of fact, that during the years 1906 and 1907 there was great uniformity in price quotations in respect to plates?

A. I do not remember it, sir.

Q. Do you have any recollection that it was not so during those two years?

A. I cannot answer that question offhand. If I had my records here I would answer you and answer you intelligently.

Q. Now, would your answer be the same for 1908?

A. Yes.

Q. 1909?

A. Have I not answered all these questions?

Q. Will you answer the question now, please?

A. Yes.

Q. 1910?

A. Now, let me be clear. That there was uniformity in price?

MR. COLTON: I would like to have the record read. I want the answer to my question.

MR. SEVERANCE: I will be glad to have it read, for I do not think he has understood your last question.

MR. DICKINSON: Read it all and let him put in any explanation he wants.

MR. COLTON: Read the question. You took this up, and I would like to have the record read to the witness and the witness can make any explanation he wishes.

MR. SEVERANCE: Read the question back there.

(The record was thereupon read by the stenographer.)

MR. COLTON: I want the witness to understand my question and to answer it.

By MR. COLTON:

Q. Now, have you any further explanation?

MR. SEVERANCE: I suggest you re-put the question, if you do not mind.

MR. COLTON: No, I do not care to re-put it, but I would like to have it re-read.

By MR. COLTON:

Q. Do you wish it re-read, or do you understand it now?

A. Can I ask you a question?

MR. SEVERANCE: Certainly you may ask a question.

MR. DICKINSON: Well, I do not know that the witness has a right to do that.

MR. SEVERANCE: Do not interrupt the witness, Judge Dickinson. You go on, Mr. Hopkins.

MR. DICKINSON: But we are very willing to have him do so.

THE WITNESS: My understanding of your question is whether I can recollect for any of the years from 1906 up to the present time any event where the prices on plates were uniform on bids that I received; is that right?

MR. DICKINSON: No; that is not the question.

MR. SEVERANCE: That is what I thought you understood.

By MR. COLTON:

Q. The question is whether you have in your mind any transactions or events for any of the years 1906, 1907, or 1908, which enable you to state the extent to which two or more of the manufacturers quoted the same price?

A. No, I have not.

Q. For those years do you carry in your mind—I am speaking only of the years 1906, 1907 and 1908—any events or transactions that enable you to state the comparative proportion of the time that several of the manufacturers quoted the same price? I do not mean all of them, but several of them?

A. No, sir.

Q. Is that true of the year 1909?

A. Yes.

Q. 1910?

A. Yes.

Q. 1911?

A. Yes.

Q. 1912?

A. Yes, sir.

Q. 1913?

A. Yes, sir.

MR. COLTON: That is all.

By MR. SEVERANCE:

Q. Is it or is it not the fact that from 1906 on right down

it has been the exception when more than one mill has quoted the same price, according to your best recollection?

A. Yes.

MR. SEVERANCE: That is all, Mr. Hopkins. Mr. Thompson.

ALEXIS W. THOMPSON

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Thompson, where is your home?

A. Chicago, at the present time.

Q. How long have you lived in Chicago?

A. Well, most of the time since 1899; I went to Chicago in 1899.

Q. Previous to 1899 where did you reside?

A. New Castle, Pennsylvania.

Q. And had you lived there for a long time before that?

A. Since April, 1875.

Q. Mr. Thompson, what was your business when you lived in New Castle?

A. Well, I was connected with a concern; it was called the Aetna Iron Works, Limited, which was afterwards changed to the Atlantic Iron & Steel Company, and is a little better known by that name.

Q. In what capacity were you connected with the Aetna Iron Works?

A. Well, when I first went there I was probably time-keeper and weighmaster, and made out the payrolls and the general bookkeeping end.

Q. How long did you continue in the bookkeeping end of the business?

A. Well, more or less all of the time; that is, I had charge; I was secretary of the company.

Q. Secretary of the company?

A. Secretary and treasurer; yes, sir.

Q. And as secretary and treasurer of that company what were your duties, generally?

A. Well, to keep the accounts and have general direction of the office forces, and the general duties that a secretary and treasurer has.

Q. Did you at that time to any extent familiarize yourself with the practical end of the business?

A. Yes; all the time. I might add that at that time it was entirely making iron. We did not make any steel in our concern. We had blast furnaces, puddle mills, muck rolls, guide mills, and cut nail factories, 55 machines.

Q. All iron products?

A. All iron products.

Q. How long after you went with that plant was it that you first began to manufacture steel?

A. Well, we never manufactured steel directly. We used to buy steel billets and blooms and roll them, but we never made any steel at that time.

Q. As I understand it, the same rolls can be used for rolling iron or steel?

A. Yes; that is the same weight product, of course.

Q. Up to what time were you connected with that corporation?

A. Until 1899, when the Republic took it over.

Q. The Republic took that over?

A. Yes.

Q. Did the Republic take over other plants besides that?

A. Oh, yes; lots of them.

Q. Where were they located?

A. Some in Youngstown, Ohio, what they call the Mahoning Valley, and some in the Shenango Valley at Sharon, Pennsylvania, as well as New Castle, and generally all of the so-called iron-producing plants through the Central West. My recollection is that there were about 28 of them altogether, nearly all of them iron plants.

Q. Did they have any steel plants at all to start with?

A. No, sir.

Q. Did they have any mines?

A. You mean the Republic?

Q. Yes.

A. Well, they took over two or three ore mines.

Q. Where were they located?

A. The Cambria and Lily mine was located on the Marquette range, and they took over three 40's on the Mesabi range, called the Franklin group.

MR. DICKINSON: I want to enter an exception to this as irrelevant.

MR. SEVERANCE: I am coming to something to make it relevant.

By MR. SEVERANCE:

Q. What relation did you have with the Republic after it was organized?

A. I went with them in 1899 and was on the executive committee and had charge practically of their northern ore properties, their blast furnaces, and their southern ore properties and blast furnaces.

Q. How long did you continue on the executive committee?

A. Well, all the time I was with the Republic, up to 1905, when I left.

Q. Did you occupy any other official position with the Republic, except as you have stated?

A. I was vice-president, and for four years president.

Q. During what four years were you president of the Republic?

A. From 1901 to 1905, a little over four years.

Q. During your connection with the Republic Iron & Steel Company did they enter upon the manufacture of steel?

A. Yes; we started to build a Bessemer plant at Youngstown, Ohio, in 1900, which was completed during the time I was with them, practically completed in 1902, I think.

Q. Did you build any open hearth plants when you were with them?

A. No, we never had any while I was with the Republic. It was Bessemer.

Q. And did you acquire any further ore companies while you were with them?

A. Yes, several. That was my business, to get as many as we could, because we did not have a very large tonnage.

Q. That is, a large ore supply?

A. That is, when the company was first organized.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

ALEXIS W. THOMPSON,

the witness under examination at the taking of recess, resumed the stand.

DIRECT EXAMINATION (Continued).

By Mr. Severance:

Q. Mr. Thompson, when did you resign as president of the Republic Iron & Steel Company.

A. October, 1905.

Q. When, if at all, did you next go into the steel business after retiring from that position?

A. In 1906, with the Inland Steel Company of Chicago.

Q. At first, what was your official connection with that company?

A. Member of the executive committee and, I think, chairman of the board they designated it at that time.

Q. What is your present position in that company?

A. I happen to be the president.

Q. How long have you been the president?

A. I think about three years. I am not quite certain; I think it is three years.

Q. Previous to the time you became president of the company, had you been at all times during your connection with it the chairman of the Executive Committee?

A. Well, chairman of the board.

Q. I mean chairman of the board?

A. Yes; up to that time. Then they abolished that office; did not think it was necessary to have it.

Q. Who was president when you were chairman of the board?

A. Charles Hart.

Q. During the time you were chairman of the Board, were you in close touch with the affairs of the company?

A. Certainly; yes, sir.

Q. Did you devote your time to the business of the company?

A. Altogether.

Q. You have, ever since 1906?

A. Yes, sir.

Q. Where is the plant of the Inland Steel Company located?

A. Indiana Harbor.

Q. Is that a suburb of Chicago?

A. No; it is in Indiana. It is three miles east of Whiting, where the Standard Oil Works are. It is about four or five miles from the line between Illinois and Indiana.

Q. Which way from Gary—east or west?

A. West of Gary.

Q. Between Gary and Chicago?

A. Yes.

Q. When you went to the Inland Steel Company, in 1906, what furnaces or mills did they have?

A. They did not have any blast furnaces. I think I have a memorandum, and can give you that exactly: five open hearth furnaces, one blooming mill—do you want this in detail?

Q. Yes; tell the detail of what you have.

A. One 24-inch structural mill; nine sheet mills; three galvanizing pots and a roofing department.

Q. What is the roofing department?

A. Well, it is where they make galvanized or plain black sheets for roofs of all kinds; mostly galvanized, of course.

Q. Since you went with the company in 1906, when they

had the plants of which you have spoken, what additions, if any, have been made to the plants?

A. In 1907 we finished the first blast furnace, No. 1. It was blown in in August, 1907; and one open hearth furnace in 1907, making six; we had five before; one continuous merchant bar mill in 1908; one sheet bar and billet mill,——

MR. DICKINSON: When was that continuous merchant bar mill—in 1907 or 1908?

THE WITNESS: In 1908. It was finished in 1908.

MR. DICKINSON: You are giving 1908 now, are you?

THE WITNESS: Yes.

And one sheet bar and billet mill in 1908.

In 1909, one galvanizing pot additional to what we had.

In 1910 four galvanizing pots.

By MR. SEVERANCE:

Q. In 1910 four more galvanizing pots?

A. Yes; and two open hearth furnaces in 1910; and nine sheet mills in 1910, which just doubled our capacity.

In 1911, rivets, spikes, bolt and nut department.

In 1912, one additional blast furnace, making two. That is all we have.

In 1913 we finished four more open hearth furnaces, making a total of 12.

In 1913, one plate mill,—I think they are called a 90-inch plate mill; and in 1913, just finished and in operation, 66 Kopper's by-product ovens.

Q. What was the investment in the business of the Inland Steel Company when you went to the company in 1906, approximately?

A. A little less than four million dollars.

Q. Has that been increased since that time?

A. Yes, sir; very much.

Q. To what extent?

A. You mean the total investment in plant and properties, ore mines and cash working capital?

Q. Yes.

A. Almost twenty million dollars.

Q. How do the sales of the Inland Steel Company compare now with what they were in 1906?

A. In 1906 they were about $6,000,000. In 1910—do you want that too?

Q. Yes; as many years as you can give.

A. In 1910, $9,800,000.

In 1911, $10,800,000.

In 1912, $13,130,000.

This year, of course, is not complete, but I would say it would be approximately the same as 1912, because our new works we did not get much benefit from, as we were just finishing it up.

Q. What has been the fact as to whether you have ordinarily run pretty full, Mr. Thompson?

A. We ran pretty full; yes, sir. There were times when we did not run over 60 per cent. I think that is the lowest we got, if I remember correctly. Perhaps in 1908, parts of 1909, and part of 1911. Most of the mills throughout the country ran—some of them even less than the 60 per cent.; but we have a pretty good market and I suppose we ran pretty nearly as full as any mill; I should say 60 per cent. in those lean years, two or three of them.

Q. What have you, if anything, in the way of transportation facilities?

A. None except a couple of ten thousand ton ore boats, freighters.

Q. Do you bring down your own ore?

A. Yes, sir. I will not say that we do; we exchange charters; but the two boats will bring down all the ore we use for the two blast furnaces, if they were kept steadily in the business. We often change off and charter other boats and recharter ours.

Q. But you have sufficient tonnage in those two boats to handle your ore traffic, if they were devoted to that purpose?

A. Yes; just about.

Q. What have you in the way of iron mines, if anything?

A. We have two what they call "forties" on the Mesabi range.

MR. DICKINSON: Ore?

MR. SEVERANCE: Iron mines.

THE WITNESS: We have two "forties" on the Mesabi. I cannot give you the exact location, as to township and all that. I just do not recall it, but it is a matter of record. They are near Hibbing.

By MR. SEVERANCE:

Q. Just give us the names of the mines, please.

A. The Laura Mine and the Grace. Then we have three "forties" on the Cuyuna range, one partly developed and the other on which nothing has been done except some exploration.

Q. What are the names of those mines?

A. Well——

Q. Or have they not been named?

A. Yes; the one that we are operating is called the Thompson. That is just a name that we gave to it. The other two, one of them is a state lease, and it has not any name that I know of, and even the third forty has not any; that is, we have not named it; have not explored the mine.

Q. What is the character of the ore in your mines on the Cuyuna range?

A. Well, so far as we have gone, the physical qualities are pretty good. There is considerable iron which we call low grade, that will have to be treated or put in with our higher grade ore, but it is a good physical ore in the furnace. We have used enough to know that; equally as good as the old range ore, we think; and, you know, the old range ore is generally understood to be a better ore than the Mesabi, on the whole; better physically for working in the furnaces.

Q. You found this Cuyuna ore to be somewhat like the old range ores in its physical structure?

A. Yes, sir; even more than the Mesabi.

Q. What lines of railroad are your mines located on?

A. The two Mesabis are on the Great Northern, and the Cuyuna is on what we call the Soo Line—the Minneapolis, St. Paul & Saulte Ste. Marie. They are the only railroad, that is, in the Cuyuna range, although I think the Northern Pacific

touches one end of it, but they have not placed any tracks for any of the mines.

Q. Then the Inland Steel Company has no mines that are served by the Duluth & Iron Range, or the Duluth, Missabe & Northern?

A. No, sir.

Q. While I think of it, did the Republic have any mines that were located along the lines of either the Duluth & Iron Range or the Duluth, Missabe & Northern when you were with it?

A. I think so. I think there were two.

Q. Have you been interested in mines up there on the range as an individual?

A. Yes, sir.

Q. Outside of the Inland Steel Company or the Republic?

A. Yes, sir.

Q. Are you still?

A. Yes, sir.

Q. Are any of those mines served by either the Iron Range or the Missabe?

A. Yes; I am pretty sure there are two of them, to the best of my recollection, which I am interested in. I think there are five different forties, and I would not be just dead sure whether it is one or two or three, but some of them are reached by either one or both of those roads.

Q. And have shipments been made both by the Republic and by these mines in which you are interested over the Iron Range and the Missabe?

A. Yes, sir. That is, I am sure I am not mistaken. Of course, what they have done lately I do not know, whether they have changed or not, but it was so, I know.

MR. DICKINSON: What time, now, are you speaking of?

By MR. SEVERANCE:

Q. When do you mean?

A. That was, say, from 1899 to 1905.

Q. You are speaking about the Republic mines, now?

A. Yes, sir.

Q. They did ship over these lines?

A. Yes, sir.

Q. How about the mines in which you are interested, and in which the Republic is not interested? Have they shipped over the Iron Range or the Missabe?

A. You mean the Great Northern?

Q. No.

A. I did not understand.

Q. You said you are interested as a stockholder or personally in some other mines?

A. Yes, sir.

Q. Outside of either the Inland or the Republic?

A. Yes, sir.

Q. Have they made shipments of ore over either the Iron Range or the Missabe roads?

A. Yes, sir; certainly.

Q. What has been the character of the service rendered both to the Republic and to these other mines in which you are interested, by the Iron Range and the Missabe roads?

A. Always the best. I thought many times they gave us the preference over their own hauls, because they always kept up their equipment and were ready for service at any time, and the Corporation, of course, had large stock piles on the docks and in transit and at the furnaces, and they could give and take a little, and so far as I know, they served the outsider better than they did themselves; they would stretch a point to do it. I know where they have done it in some instances.

Q. How long an ore reserve has the Inland Steel Company now, based upon its present consumption?

A. Well, of course, on the Cuyuna range we cannot measure it as definitely as we can on the Mesabi, but from what explorations we have made, and estimates—the best we can do—we figure we have from five to fifteen million tons in the three forties.

MR. DICKINSON: Is that on the Cuyuna range?

THE WITNESS: Yes.

By MR. SEVERANCE:

Q. On the Cuyuna range?

A. Yes, sir.

Q. And how much on the Mesabi?

A. Well, from five to seven. That we know definitely, you know. We can measure that up almost accurately.

Q. And what is your annual consumption at present in your blast furnaces?

A. In round numbers, a half a million tons when both furnaces are in blast. I should say 25 to 30 years' supply with the present two furnaces.

Q. Do you depend entirely upon your own mines for your ore supply or do you purchase ore?

A. I think we purchased ore every year that I have been with them, from 50,000 to 100,000 tons.

Q. Has there been plenty of ore available for purchase?

A. Yes, sir; always. There was never a time we could not buy ore—never; from a good many large companies.

Q. From a good many large companies?

A. Yes, sir. Almost any of the larger companies at Cleveland. The Cleveland Cliffs, one of the largest independent mines, always had ore to sell at any time. M. A. Hanna & Company; Pickands, Mather; Oglebay, Norton & Company, and Corrigan, McKinney & Company, they are very large independent producers, and Todd, Stambaugh & Company, and then there is Breitung & Company; they have large fee property and mines on the Marquette range. They are large sellers. That is all I think of—the largest ones. I think it includes nearly all of them. In fact, all of the ore companies represented in Cleveland have ore to sell. We figured all the ore that we bought just reserved that much more in our own mines, and there have been one or two or three years, or since 1907, that ore sold pretty cheap—nearly as cheap as we could produce it ourselves, and, of course, we bought more liberally in those years.

Q. When did you acquire your ore holdings on the Mesabi range?

A. Well, the way is this, that myself and two or three associates had the Laura mine, and the Inland Steel Company was anxious to get into the steel business and build blast fur-

naces, and we sold them the mine. That is how I happened to go with them.

Q. That is at the time you went with the Inland Steel Company?

A. Yes; in 1906. They had no ore properties before that. They have acquired them all since.

Q. Are those vessels that the Inland Steel Company has of the same general type as the ordinary lake vessel of the Pittsburgh Steamship Company, and others?

A. Yes; they were built by the American Ship Building Company, in 1907 and 1908. They are not quite the largest, but nearly the largest; probably larger than the average that the Pittsburgh Steamship Company have. They are 10,000 ton boats, and that is about the largest.

Q. They are modern, well equipped boats?

A. Yes; absolutely just as good as new. We got them two years ago, so that they practically have been tried out one year; one one year, and one of them two years.

Q. Mr. Thompson, where does the Inland Steel Company have selling offices?

A. Well, we have one at St. Paul and one at St. Louis, and one at Denver, I think; yes, one in Denver, and one at Dallas, Texas.

Q. That is, you maintain regular agencies at those places?

A. Yes.

Q. Having representatives?

A. Well, they are in our employ. We rent the offices and they are in our employ. We do not have any selling agencies; we sell direct, that is, we do not sell on commission.

Q. I understand; they are selling agents, representing you there?

A. Yes.

Q. In what parts of the United States do you sell your products outside of the immediate vicinity of those agencies?

A. Well, a great deal of our stuff goes up to the Northwest, as far as St. Paul and Milwaukee, and Minneapolis, and we sell a good deal of stuff in Texas and Oklahoma, but very little on the coast.

MR. DICKINSON: You mean the Pacific coast?

THE WITNESS: Yes, very little there; occasionally a shipment, but not much.

By MR. SEVERANCE:

Q. Your plant, you said, was located between Chicago and Gary?

A. Yes.

Q. Where is it with reference to the old South Works of the Illinois Steel Company?

A. The South Works are still nearer Chicago than ours.

Q. That is, you are between the two, are you?

A. Yes.

Q. Are you located on the Lake front?

A. Right on a point of the Lake.

Q. So that you unload your ore right at your works?

A. Yes; we have our own docks and unloading rigs, the same as all of them do.

Q. Have you the same rail connections or facilities that the Steel Corporation has for distributing your products from the works?

A. I would say very nearly the same. You see, we have the Pennsylvania Road, the Lake Shore, the B. & O. and the E., J. & E., and then the Belt Line, so that we have access to all of the railroads coming into Chicago by a switching charge to those that do not actually run through the works. The three trunk lines that I mentioned go right through the works, split them right in two.

Q. Are you served by the same roads that serve the Gary and South Chicago works of the Illinois Steel Company?

A. I should say yes, practically the same. I have never heard there was any difference. You see the line of Gary is only about a third of a mile or a quarter of a mile from our line, where they begin; of course they run on down further, but I do not think there is half a mile difference between the two boundaries.

Q. Do you sell as far west as Utah?

A. I think so, yes; not very much.

Q. Do you go into Montana?

A. Yes.

Q. Wyoming?

A. Yes, and I suppose into the Dakotas. I think we reach into all of those places. Take sheet products, galvanized products, like wire nails; they go to the corner grocery stores, but not much in the heavy stuff.

Q. Mr. Thompson, what class of steel products are produced by the Inland Steel Company?

A. Do you want the names of them? It is a pretty long list.

Q. Yes.

A. Here are the main ones: Sheets, black, galvanized and special, plates, angles, both bar and structural; channels, structural, five to twelve inches; Z-bars from 2⅛ to 6 inches; I-beams from 5 to 12 inches, bars, flat, square, round, oval and half oval; concrete reinforcing bars, plain and twisted; rivets, nuts, bolts, spikes, tie-plates, billets, blooms and pig iron. Of course mostly for our own use. Then we have a mill at Chicago Heights where we roll high carbon stuff, all sorts of bars and shapes and sections from four-tenths carbon to rail steel carbon, which is seven- to eight-tenths. That is made by buying old Bessemer rails, or mostly Bessemer, shearing them up and heating them and rolling them into stuff of that kind, bedstead angles and all that sort of high carbon stuff.

Q. That is what you call re-rolling?

A. Not exactly, because when the rails are cut up and re-heated they are broken down the same as you use billets.

Q. Re-rolled and re-heated material?

A. Yes, we re-heat it; the re-rolling rail process is heating it and rolling the rails down a little smaller, but there is nothing of that kind; we break it down into the smaller sizes.

Q. What is the name of your plant over at Chicago Heights? Has it any separate name from the Inland Steel Company?

A. We generally call it the Chicago Heights plant.

Q. How extensive is that plant? What is the tonnage you turn out there?

A. About 30,000 tons a year.

Q. Where is the market for that product?

A. Well, it is mostly around Chicago. You see the reinforcing bars and twisted bars are used for concrete work, and there has been a very large amount of building around Chicago, and we find a ready market for it there. Of course we ship some to other points, but not very extensively.

Q. Do you ship any east, or is your market entirely Chicago and west?

A. Entirely Chicago and west; we do not ship east at all; that is, perhaps we go as far east as Indianapolis and some points down there, but not very far. We do not go to the Valley or Pittsburgh or to the east here at all.

Q. Why is that?

A. Freight rates are against us.

Q. Has that always been so?

A. Certainly.

Q. What companies or mills are there that are in competition with the Inland Steel Company in the territory in which you sell your product?

A. Well, almost all of them. I can enumerate the principal ones—Illinois Steel, Indiana Steel Company, that is the Gary Plant; and the American Sheet & Tin Plate Company. Do you want the subsidiaries as well?

Q. Yes; give all of them.

A. Cambria Steel Company, Carnegie Steel Company, Lackawanna Steel Company, Republic Iron & Steel Company, Youngstown Sheet & Tube Company, La Belle Steel Company, Jones & Laughlin Steel Company, Brier Hill Steel Company; although they are not finished they will be competitors. I do not know whether they are running yet, but they are practically ready to run; and the Stark Rolling Mill Company at Canton, Ohio, the Wheeling Corrugating Company, Wheeling, West Virginia; the Portsmouth Iron & Steel Company; I think they are at Portsmouth, Ohio, if I remember right, and Whitaker-Glessner Company.

MR. DICKINSON: Is that John J. Glessner or not?

THE WITNESS: I am not quite sure whether it is or not.

Newport Rolling Mill Company, Newport, Kentucky,

American Rolling Mill Company, Middletown, Ohio; Granite City Steel Company; they are operated by the National Enameling and Stamping Company; and the Colorado Fuel & Iron Company. I might have forgotten two or three, but that covers nearly all of them.

Q. Do those different concerns compete with you generally in the territory in which you are selling?

A. Yes.

MR. DICKINSON: Do you mean generally in all classes of products?

MR. SEVERANCE: No; such ones as they make and you make that are in common.

THE WITNESS: Yes, sir.

By MR. SEVERANCE:

Q. Has that competition existed ever since you became connected with the Inland Steel Company in so far as you have made products that were common with these others?

A. Yes.

Q. What has been the nature of that competition? Has it been active or otherwise?

A. It has been very active all the time.

Q. Has that competition been restrained by agreements on prices at any time?

MR. DICKINSON: I object to the witness stating anything except what he knows or has been a party to himself.

By MR. SEVERANCE:

Q. So far as you know?

A. No, sir; not to my knowledge.

Q. Has the Inland Steel Company been a party to any agreements by which it agreed to sell at the same price as any of its competitors at any time during that period?

A. No, sir.

Q. Have you made your own prices, independently of everybody else?

A. Always; yes, sir.

Q. Did you attend any of the so-called Gary dinners?

A. I don't think I missed one. If I did, I am sorry. I tried not to.

Q. Were any agreements or understandings as to prices entered into at those dinners?

A. No, sir. If there were, I did not know it. I never heard at any of the dinners the price of bar steel or any other specific price mentioned.

Q. Did the Inland Steel Company, pursuant to the Gary dinners, or by reason of the Gary dinners, quote the same price as any of its competitors, so far as you know?

A. I suppose at times we did, but not by any agreement. I suppose there were times that we made the same price, perhaps, on bars or sheets that the Steel Corporation's subsidiaries did, or that Jones & Laughlin did. I have no doubt that at times, without knowing it, we made practically the same prices?

Q. But was that pursuant to any understanding or agreement to that effect?

A. No, sir.

Q. How do the facilities of the Inland Steel Company for assembling its raw materials and shipping its finished products compare with the facilities of the subsidiaries of the United States Steel Corporation that you say are in competition with you?

A. I should say they were about the same, without knowing absolutely. I think the facilities are practically the same in our district as those of the Illinois Steel Company or the Indiana Steel Company. I think they are all coupled up about the same to the railroads, and reach the railroads probably in the same way.

Q. And for transporting your ore from the mines is there any difference in their facilities and yours?

A. Not that I can imagine, unless they had a little better boat or a little better engine or a little better crew, but we have the same opportunity that they have got, and if we do not manage our boats as well, it is our own fault, isn't it?

Q. You are familiar, in a general way, are you not, with the Mesabi range?

A. Yes, sir; I used to go there a great deal, shortly after it was first opened up, and a great many times since, on trips to see our own mines, and on other trips.

Q. You have seen the mines owned by the Steel Corporation on the range?

A. I have seen almost all the principal ones up there, owned by the Corporation and others.

Q. You are very familiar with that district?

A. Not as familiar as the people that live there, but with the best opportunities I had I made myself familiar with it.

Q. I will ask you this question: from your knowledge of the iron and steel business, the relative capacities of those engaged in it, the capitalization of the United States Steel Corporation, its ownership of railroads, its connection with financial interests, state whether or not in your judgment it has the potentiality, if it uses it, to destroy its competitors?

A. No; that is absurd. They cannot do it. I think it is a physical impossibility. I cannot imagine how they could do it.

Q. Is there any possible doubt in your mind of the ability of the Inland Steel Company to maintain itself in any kind of competition?

A. Well, that is what we are aiming to do. We think so. We think we are getting as well prepared as most of our competitors by the money that we have spent there; and I believe it has been spent on the right lines. I know that we would not change any of it if we had it to do over again, as far as we have gone.

Q. And you are very well integrated, as you have stated?

A. Yes; we did the best that it was possible to do.

Q. Mr. Thompson, you stated in answer to my question a short time ago that the competition between the Inland Steel Company and these other companies had been active in the territory that you serve?

A. Yes, sir.

Q. What do you mean by "active"?

A. Always at it. We were always trying to get business. I don't know how to express it any stronger than to say that we were all looking for trade, in an active way, all the time.

keeping ourselves posted on conditions and soliciting business from just such men as the witness who was examined here this morning, and from other railroads; I say it is active because we are always at it—all of us.

Q. All of you are always at it?

A. Why, certainly.

MR. SEVERANCE: You may examine, Judge.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Thompson, you stated that you had the same facilities for assembling your raw product, preparing it for the market and selling it as did the subsidiaries of the United States Steel Corporation which competed with you, didn't you?

A. I understood the question in and around Chicago.

Q. Oh, you want to confine it to in and around Chicago?

A. If I remember, that was the question asked me, yes, sir.

Q. And that is what you meant by your answer, was it?

A. Yes, sir.

Q. You did not understand that question to involve anything about ore, then?

A. There was nothing said about that.

Q. That is your recollection, and that is the way you intended to answer it, was it?

A. Yes, sir.

Q. Well, have you any ore roads?

A. No, sir.

Q. Do you not think if you had roads that went from the ore fields, and that your competitors hauled over your roads, and you got the profit, if there were a profit, over and above the cost of transportation, that that would give you some advantage over your competitors who turned that ore into steel and sold it against you?

A. Well, that is possible; yes, sir.

Q. Is it not true, Mr. Thompson?

A. Well, sir; I am not a railroad man, and I cannot answer

that absolutely. It would not pay us with our small tonnage to build a road to try to get the profit, whatever there might be in the haul- -to invest our money.

Q. I am asking you, though, as an expert steel man, if you were large enough in your output and tonnage to build a railroad, and owned a railroad over which your competitors shipped and paid you a freight and a profit over and above the cost of transportation, would not that give you an advantage over those competitors who sold the same finished product that you did in the market?

A. There is no doubt about that; it would give us an advantage; how much I do not know.

Q. Do you know the Lake Shore & Eastern Railway Company?

A. Do I know of the Lake Shore Railroad?

Q. I mean the Chicago, Lake Shore & Eastern Railway Company; do you know where that road is?

A. Well, yes, sir; in a general way. I have never been over the road altogether.

Q. Do you know where the Chicago & Kenosha Railroad Company is?

A. Never heard of it. Chicago and Kenosha? No, sir; I do not know anything about it.

Q. Do you know where the Chicago & Southeastern Railway is?

A. No, sir; I do not.

Q. Do you know where the Joliet & Blue Island Railway Company is?

A. Yes, sir; nearly so.

Q. And do you know where the Milwaukee, Bay View and Chicago Railroad Company is?

A. No, sir.

Q. Do you know where the Elgin, Joliet & Eastern Railway is?

A. Very nearly; yes, sir. I have never been over the road.

Q. Do you own any such railroad as that?

A. No, sir; we do not own any railroads.

Q. Do you know who owns that railroad?

A. No, sir; I do not know the owners.

Q. You do not know whether the United States Steel Corporation owns and controls them?

A. They never told me so. I have heard so, but I do not know that.

Q. They have never told you so?

A. No, sir.

Q. You have no such facilities as that, have you?

A. We have not any railroad at all, sir, except a few tracks around our own works—inside our own works.

Q. Now, you stated that from your knowledge of the iron and steel business and the relative capacities of those engaged in it, the capitalization of the United States Steel Corporation, its ownership of railroads, its connection with financial interests—you were asked to state whether or not in your judgment it has the potentiality, if it used it, to destroy its competitors, and you said that would be absurd?

A. I still think so. I have no reason to change it.

Q. What railroads does it own, that you know of?

A. I understand they own two on the iron ranges, the Duluth & Iron Range, and the Duluth, Missabe & Northern, and a railroad from Conneaut to Pittsburgh.

Q. If you had a railroad like that, it would give you an advantage over your competitors, would it not?

A. Probably so; yes, sir.

Q. Now, what are its financial connections? Do you know what they are, the United States Steel Corporation?

A. No, sir; I do not; that is, I have no positive knowledge.

Q. What is the capacity of the United States Steel Corporation per annum in ingots—steel ingots?

A. Now, let me see. That is a matter of figures which can be gotten at.

Q. Oh, yes; I know.

A. In 1912, do you mean?

Q. Well, I will say 1912, if you know that.

A. Well, it is somewhere around 12 to 14 million tons. I cannot be accurate. Those statistics are published and I think 1912 is out. I do not think I have seen them.

Q. So far as you know, it was about 14,000,000 tons?

A. Yes, sir; that is my recollection. Let us see. I think

we were making about 28,000,000 tons, and figuring the Corporation's fifty per cent. would be about 14,000,000; yes, sir. That is practically right; it may be a million out of the way.

Q. How much did you say in ingots you made in that year?

A. I think in 1912 about 28,000,000.

Q. About 28,000,000?

A. Yes, sir.

Q. You mean the entire country?

A. Yes, sir; in the United States.

Q. But I asked you what you made.

A. Oh, what the Inland Steel Company made?

Q. Yes.

A. In 1912?

Q. Yes.

A. I have not the figures, but I should say about 350,000 tons.

Q. Do you think that a concern of 350,000 tons is just as strong as a competitor that makes 14,000,000 tons?

A. Sometimes stronger.

Q. Is it generally stronger or not?

A. Well, no, I would not say they are generally stronger.

Q. Which way is it? Which is generally the strongest, and which has the greatest power in the market?

A. Of course, a man that produces 14,000,000 tons has got a wider distribution of his markets, and probably is stronger in the selling end, although I do not know that that is of any particular advantage, so far as profits are concerned.

Q. If he has a wider distribution of market—a very much wider distribution of market, can he not make one part balance as against the other and, in that way, if he chooses, make himself stronger in one quarter at times, if he chooses to exert his strength in that quarter, by reason of this large distribution?

A. That is true, and a larger diversity of product. That has a good deal to do with it, you know.

Q. And a concern that has a larger diversity of product, that has a world-wide distribution, that has a greater variety of markets, can develop in any particular territory more

strength than one which in that territory is more circumscribed in its market, can it not?

A. Certainly; that is natural.

Q. Does the question of capital and ready capital give one strength in the control of business?

A. It surely does.

Q. Now, suppose your company carried a deposit of something like $70,000,000; would that be helpful in your business, and strengthen you as against your competitors?

A. Why, not particularly; no, sir, if we have ample without it. If we have enough to finance our business and carry our commercial trade, enough is enough. It would not be of any particular advantage to have a whole lot more, would it?

Q. And your knowledge of business does not lead you to any perspective by which you would derive any advantage from having command at all times of a large capital of that sort?

A. If we wanted to extend or build, yes.

Q. Suppose you wanted to accommodate customers, could you do it?

A. Of course the larger capital you have got, the longer you could accommodate a customer, but the general rule in the steel business is thirty days credit.

Q. That is your rule, is it?

A. Yes.

Q. Do you know that it is everybody else's rule?

A. Why, practically yes.

Q. Do you know that there is no variation from that rule?

A. There is always variation.

Q. There is always variation?

A. Certainly.

Q. In that kind of instances, why, then, a large capital would be a potentiality, would it not?

A. There is no question that it would be.

Q. You do not claim to be as familiar with the strength and capacity and potentiality of the Steel Corporation as Judge Gary, do you?

A. I should not be.

Q. You do not think you are?

A. Certainly not.

Q. And on a question of potentiality, as relating to competitors, you would rather take his judgment than yours, would you not?

A. I would give it a great deal of consideration.

Q. If he thought that that had a potentiality to put competitors out of business, if they chose to exercise the power, you would think he knew, would you not?

A. He might think so and still be mistaken.

Q. Yes, but I mean to say, knowing his own concern better than you do, his judgment would be entitled, in your estimate, to more weight than your judgment, would it not?

A. It would be probably in the minds of the public.

Q. In your own mind, would it not?

A. That is a pretty hard question to answer in the way you put it. Of course you state, if we had seventy millions of dollars credit, it would make us very much stronger to do larger things. I say we do not need that much, have no use for it.

Q. I am not asking you anything about seventy millions of dollars.

A. You stated that amount.

Q. I know I did, but I passed from that, and I am now asking you simply whether or not you would set your judgment up against Judge Gary's as to the potentiality of his Corporation.

A. No, sir; I would not.

Q. Now, do you know, in the year 1912, what was the tonnage or output of the United States Steel Corporation in standard rails?

A. No, sir. It is a matter of statistics and can be very easily ascertained. I do not know exactly; no, sir.

Q. Do you know anywhere near it?

A. I would guess at around two million and a half to three million.

Q. Two million and a half to three million tons?

A. That is just an offhand guess.

Q. It is a guess?

A. It is not actual knowledge, but it is very easily ascertained.

Q. I understand, but I am asking you if you knew.

A. No, sir.

Q. You admit that is a guess?

A. Yes.

Q. How about plates? Can you give the tonnage in 1912?

A. No.

Q. Can you approximate it?

A. No, sir; I cannot, because there are a good many new plate mills built and increased in the last year or two, and I have sort of lost track. You asked me about plates, and I said I did not have it in mind, because up to very recently we have not made any large plates, and I am not as familiar with that end of the business as some others.

Q. What new plate mills were built in the year 1912?

A. There was one finished by the Republic at Youngstown, Ohio, that I know of. Ours was started in 1912, but not finished until this year.

Q. What others were built in 1912?

A. I do not know that I can recall any. There have been some enlarged.

Q. What were enlarged in 1912?

A. I cannot answer that without going over statistics, and that is all a matter of record too, to a dot.

Q. When you said a good many were built in 1912, so far as your actual knowledge goes, you can only give one?

A. No, I gave you two. Oh, in 1912?

Q. Yes.

A. Yes, that is right.

Q. What were built in 1913?

A. Well, we finished ours perhaps a month ago.

Q. Do you know any others?

A. I do not just recall; no, sir.

Q. So, if there were a great many built you cannot name any except that one?

A. I perhaps said that a little too strong. If I said a

great many, I should perhaps have said a few. You can correct that, and say a few.

Q. You have corrected it now after you have been cross examined on it.

A. Well, let that be.

MR. SEVERANCE: His attention has been called to it. It is hardly necessary to speak that way to the witness, I think.

By MR. DICKINSON:

Q. Who are the principal competitors of the United States Steel Corporation? Just name them.

A. Well, commencing in the east, I suppose the Bethlehem, the Maryland Steel Company, the Pennsylvania Steel Company, the Cambria Steel Company, Jones & Laughlin, the Lackawanna Steel Company and the Youngstown Sheet & Tube; La Belle Steel Works, ourselves, the Inland Steel Company. Those are the larger ones; there are a great many small ones.

Q. What is the capitalization of the Bethlehem?

A. Well, as I recall it, it is about fourteen million and a half preferred, and fourteen million and a half common. That is a matter of record; I am not betraying any secret. It is published, I guess, in Poor's Manual.

Q. That would be twenty-nine millions?

A. Yes; I am not very far wrong.

Q. What was the output of that company in 1912 in steel ingots?

A. That I could not answer. It is a matter of record.

Q. Can you approximate it?

A. I should say something like 1,000 or 1,200 tons a day. That is only a guess; I would not like to say, but it is a matter of record in Poor's Manual.

Q. Well, I just wanted to see what is written down in your mind. So all you can give is a guess at it?

A. Yes. I could not give you positive figures on the output.

Q. So that you cannot say that you know what its capacity is?

A. No, sir; I do not, exactly.

Q. You do not know it approximately either, do you?

A. I would say no, then.

Q. Take the Maryland in the year 1912. What was its capacity in steel ingots?

A. I do not know that I ever had it brought to my attention. I couldn't say.

Q. And the Pennsylvania?

A. I couldn't answer that.

Q. The Cambria?

A. I should say about 1,000 tons a day.

Q. Have you any knowledge of that, or is that a guess, like the other was?

A. I think I heard—I was talking with one of the vice-presidents, Mr. Replogle, in Chicago, and my recollection is that he said they were finishing about 1,000 tons a day. That would make the ingot capacity perhaps 1,200. That is conversation, and I did not pin him down; he just volunteered the information.

Q. That is all you know about that, is it?

A. Yes.

Q. Coming back to the Maryland, what is the capitalization of that?

A. I do not know. I haven't it in my mind. I do not know as I ever saw it.

Q. And the Pennsylvania?

A. I could not answer that either.

Q. And the Cambria?

A. Let us see. I have seen that; I am pretty sure I am right—$45,000,000.

Q. What is the capitalization of Jones & Laughlin?

A. Without positive knowledge, I think it is $30,000,000.

Q. Was that what you had in mind when you answered the question in regard to the potentiality of the Steel Corporation?

A. Which?

Q. The capitalization of Jones & Laughlin?

A. No, sir.

Q. Did you have anything in mind as to capitalization?

A. No, sir.

Q. Did you have anything in mind as to the capitalization

or the output or capacity of any of these companies I have mentioned?

A. No, sir; I had in mind the capacity of the works and their location and products, without reference to capital. I did not have capital in my mind at all when I was answering those questions.

Q. The capital is a very important thing, is it not, in regard to the strength of a competitor.

A. It has some weight.

Q. Does it not have a great deal of weight?

A. Certainly.

Q. And you did not have that in mind when you answered that question?

A. No, sir.

Q. Take Jones & Laughlin; what was their output in ingots in 1912?

A. That I cannot answer.

Q. What was their capacity?

A. I cannot answer that from knowledge. They have increased very largely in the last two years.

Q. The Lackawanna for that year: Do you know the capacity or output in ingots?

A. Not positively; no, sir.

Q. Can you give it approximately?

A. The Lackawanna, in ingots?

Q. First, give the capitalization.

A. I had that in mind once, but I cannot answer that now.

Q. When did you last have it in mind?

A. Sometime when I was reading over the statements of the corporation.

Q. That has not been to-day, has it?

A. No, sir.

Q. The output in ingots; can you give that for 1912, for the Lackawanna?

A. I can only make an approximate guess at it; say about 1,000 to 1,200 tons a day.

Q. That would be purely a guess, would it?

A. It would not be such a very bad guess; somewhere in that neighborhood. It might be as high as 1,500, but I don't think so.

Q. That would not be such a very bad guess, but it might be a moderately bad one, might it?

A. I am only just guessing.

Q. All right, let it go at that.

A. I am doing the best I can.

Q. On guessing?

A. Yes.

Q. Take the Youngstown Sheet & Tube Company: What is the capitalization of that?

A. That has changed in the last year, My recollection is it is $5,000,000 preferred and $20,000,000 of common; that would be $25,000,000.

Q. What was the output and capacity in ingots of that company for 1912?

A. I should say about 750,000 tons.

Q. Is that a guess, like the others?

A. It is not a very bad guess.

Q. I know, but still it is a guess, just the same as the others?

A. Certainly it is not absolute figures.

Q. Now, the La Belle; what is the capitalization of that?

A. That has been recently increased. My recollection is that it is about $20,000,000. I could not be very positive about that.

Q. How about the output and capacity in ingots for 1912 of the La Belle: Can you give any more than a guess in regard to that?

A. Yes; they ought to do about the same as we do at our works; something like 350,000 tons a year.

Q. I have asked you about 1912; can you give any nearer figures as to 1913 as to the capacities and outputs of these various companies than you have given?

A. No; because they have all been increased some and the 1913 figures are not yet available.

Q. You do not know what they are?

A. No, sir.

Q. You do not know what their present capacity or output is?

A. I would say they are a little larger than in 1912.

Everybody has been running a little bit fuller up to the present time; that is, our capacity has been pretty well pressed and taxed; so that I should say it was, if anything, more. It would be very easy to ascertain those figures definitely.

Q. Your capitalization, you stated, was how much?

A. A little less than $8,000,000.

Q. And you have a limited territory?

A. What do you mean by that?

Q. I mean for sale, as compared with that of the United States Steel Corporation?

A. No, sir; we sell pretty generally in most states they do.

Q. Do you sell east of Indiana?

A. No.

Q. There are some states, then, in which you do not sell, where they do; is not that a fact?

A. I say, in the western territory. I did not say in the eastern territory. I say in most of the western states.

Q. Then your territory is confined largely to the western states?

A. Certainly.

Q. And they sell all over the United States, do they?

A. Yes, sir; they have plants in the east as well as in the west.

Q. To what extent do you sell in the foreign trade, excluding Canada and Mexico?

A. None at all.

Q. What is the capitalization of the United States Steel Corporation? Do you know?

A. I think almost everybody ought to know that. We have seen it so many times.

Q. What do you think it is?

A. It is something like $360,000,000 preferred and $508,000,000 of common. You can correct me if I am not right.

Q. I am not trying to correct you on anything.

A. I want to get it as nearly accurate as I can.

Q. I am indifferent about that.

Do you know what the amount of bonds is on it?

A. Not exactly. I have seen that stated. It is upwards of $550,000,000 or $600,000,000.

Q. Has your concern any bonds on it?

A. Yes, sir.

Q. Were the bonds included in the $8,000,000 you mentioned?

A. No, sir.

Q. How much are the bonds?

A. Let me see; the last annual statement, which is a matter of record, shows that exactly. That is what you want, is it not?

Q. I am content with whatever you say about it.

A. On June 30, 1913, $4,750,000.

Q. Do you know what the annual capacity of the United States Steel Corporation is in wire rods?

A. No, sir.

Q. Do you know what percentage it produces in wire rods as compared with all the wire rods produced in the United States—steel, I mean?

A. That would be a guess.

Q. Do you know what its capacity is in tin plate?

A. No, sir.

Q. And its relative percentage of production as compared with the whole product of the United States?

A. No, sir; I do not remember ever seeing those statistics. If I have I have not fastened them in my mind.

Q. Do you know anything about its business in tin plate?

A. No, sir.

Q. In wire?

A. Only in a general way, as we do not make wire goods at all.

Q. The subsidiaries of the United States Steel Corporation, taking them all together, make a great variety of products in large quantities, that you do not make at all?

A. Yes, sir; certainly.

Q. How about structural steel; do you make any of that?

A. We do not make the larger sections; no, sir.

Q. How about pipe?

A. Not at all.

Q. You do not make that at all?

A. No, sir.

Q. Do you know the capacity of the Corporation in structural as compared with the capacity of all of the producers in the United States?

A. No, sir.

Q. And in pipe, do you know what their capacity is?

A. No.

Q. And the percentage as compared with all others?

A. I do not; no, sir.

Q. Do you know it in bars?

A. No, sir; I do not.

Q. You stated, I believe, that you had quite a long experience in the ores in the lake region?

A. Well, that depends on the kind of experience; I have been going up there a great deal; yes, sir.

Q. Now, you have been a buyer of ore lands, have you not?

A. Yes, sir.

Q. And have leased ore lands?

A. Yes, sir.

Q. And have sold ore lands; that is to say, you have turned them over to your company?

A. Yes, sir.

Q. So it was a sale, so far as you were concerned?

A. Absolutely; yes, sir.

Q. And you are now interested in ore lands?

A. Yes, sir.

Q. How far back does your experience and knowledge of the ore lands in the lake region go?

A. Well, pretty generally after the year 1892, when the Mesabi range was discovered.

Q. And from 1892 down to the present time——

A. Yes, sir.

Q. (Continuing) —have you been interested there?

A. I think so.

Q. In ore properties?

A. Yes, sir; all the time, either directly or indirectly.

Q. Prior to the year 1902, what was the highest price that you ever knew to be paid for fee ore in the ground, per ton?

A. 1902?

Q. Prior to 1902?

A. I could not answer that absolutely certainly.

Q. Did you ever know of any to be sold where the price was higher than fifteen cents a ton?

MR. SEVERANCE: Do you mean a purchase outright or a lease?

MR. DICKINSON: A purchase outright.

THE WITNESS: That is fifteen cents a ton for the measured-up ore at that time?

By MR. DICKINSON:

Q. Yes.

A. No, I do not recall any higher price than that. You say since 1902?

Q. No; previous to 1902.

A. No; I do not remember any ore property selling higher than that previous to 1902.

Q. You spoke of measured-up ore. For estimated ore it would be still less, would it not?

A. Well, that would depend on the kind of trade, you know, that the buyer and seller would make. In the Mesabi ore properties you can drill them and test them up almost accurately as to the amount of ore that is in a given forty.

Q. Well, either estimated or measured up, whichever way you take it, you never knew, prior to 1902, of a higher price being paid than fifteen cents a ton for fee ore in the ground?

A. None that I can recall.

Q. Since that have you ever known a higher price to be paid, and if so, when?

A. I do not have any positive knowledge; no, sir, because I never bought any fee ore. Ours was all subject to a royalty.

Q. But you have inquired the price of ores there, have you not, when you were prospecting or looking around for the purpose of either buying or leasing?

A. I never did any prospecting myself.

Q. I do not mean "prospecting" in the sense of going out and digging holes in the ground, but——

A. I got all the information I could get, one way and another; yes, sir.

Q. And you got it for the purpose of knowing how to spend your money, did you not?

A. Yes, that was the object.

Q. And you used your best opportunities and best judgment?

A. Yes, sir, and did it as intelligently as I could.

Q. Now, prior to 1902, what was the highest price you ever knew to be paid as royalty for ore in the lake regions?

A. As I recall it, fifty cents a ton.

Q. Prior to 1902?

A. Yes, sir.

Q. Where was that?

A. Well, I think it was one of the properties that Mr. Kimberly—a leasehold that he got. I think the original royalty was fifty cents.

Q. When was that?

A. That was in 1893 or 1894. It was early in the game; that is, early—soon after the Mesabi ore was discovered.

Q. Now, then——

A. It was afterwards reduced, though, to thirty cents.

Q. It was afterwards reduced to thirty cents?

A. Yes, sir.

Q. Now, in 1900 or 1899 what was the highest you ever knew?

A. For fee?

Q. No; I am speaking now of a royalty.

A. For a lease?

Q. Yes, a lease.

A. Royalty?

Q. Yes.

A. Well, prior to that time I do not know that I heard of anything higher than fifty cents.

Q. Prior to what time?

A. 1899 or 1900.

Q. But you said you heard of one instance, 'way back earlier, and you said it was reduced after that, did you not?

A. I said it was reduced to thirty cents.

Q. Yes.

A. I know that.

Q. After it was reduced to thirty cents, did you ever hear of any in 1899 or 1900 or 1901 that was higher than thirty cents? If so, which one was it?

A. I cannot answer that. I have not any positive knowledge.

Q. Well, what was the general rate, then?

A. Oh, along about 25 to 40 cents, in a general way.

Q. 25 to 40 cents?

A. Yes, sir; in a general way.

Q. Do you know when the Hill lease was made?

A. Yes, sir; 1907.

Q. Up to that time did you ever hear of any royalty being paid in that region as high as that that was paid under the Hill lease?

A. None that I know of.

Q. Did not that price sort of set people crazy on prices there in that country?

A. Well, I do not know what you would call "crazy." It got them excited about it; yes, sir.

Q. What would you call "crazy"? Would that be a form of expression——

A. Well, a crazy man is different than an excited man.

Q. Yes.

A. They did get excited over the prices of ore, sure, but I do not know that they got so crazy that they had to go to an asylum, or anything like that.

Q. Oh, no; I did not mean that. They stopped short of the asylum, but got very much excited, did they?

A. Yes, sir; that may be so.

Q. And that was on account of the price of that lease?

A. I think it had some influence.

Q. Well, did it have a great deal to do with it?

A. Probably.

Q. Now, from the year 1900 down to the present time, have not the Lake Superior ores been the basis of the large bulk of the steel industry of the United States?

A. Yes; a larger percentage of them, sure. Of course, there is a great deal of pig iron made in the Southern States, but the larger percentage, the basis, of course—the largest percentage of iron and steel depends on the Lake Superior district; did and has for a long time.

Q. Would you not say that something like 80 per cent. of the steel industry has depended upon the lake region, and has been depending upon it for twenty years?

A. That would be a little high.

Q. How about 75 per cent.?

A. 60 to 70 per cent.

Q. Exceeding 70?

MR. SEVERANCE: He did not say "exceeding 70"; he said 60 to 70.

THE WITNESS: Yes, 60 to 70. Two-thirds would be perhaps right. Say 66 per cent.

By MR. DICKINSON:

Q. Now, being engaged in the steel business, do you keep yourself generally posted as to ores, and the development of ores, and their discoveries?

A. As much as possible.

Q. In all parts of the world, do you not?

A. No, I would not say that.

Q. I mean, as far as they have been brought to the attention——

A. Whatever comes to our attention; yes, sir.

Q. And you keep alert on that subject, to be posted, do you not?

A. Yes, sir.

Q. In your judgment, how long will the larger percentage, say, oh, from 60 to 65 per cent. of the steel industry of the United States, be dependent upon the Lake Superior ores?

A. That is a question that can only be told by a prophet, who can tell you what the consumption of steel products will be, and how much the consumption of ore will be. You can only guess at that.

Q. I know, but I want to see what kind of a prophet you will be, and I would like to get your judgment.

MR. SEVERANCE: I will enter an objection to that as purely speculative; necessarily so.

MR. DICKINSON: Well, I will get Mr. Thompson's opinion on it, anyway.

By MR. DICKINSON:

Q. You have expressed an opinion on that, have you not?

A. Oh, I should, at a guess, say 25 to 30 years; perhaps 35 years. There is a tremendous lot of low grade ore up there that is going to be treated and brought up; billions of tons of low grade ore that somebody will treat and ship in place of the higher grades, when it becomes necessary to do it. I am not taking that into account, because there are vast quantities of that, which runs 40 to 42 or 43 per cent.

Q. And if that be taken in it might enlarge that period, might it not?

A. Yes, it might run 50 years; I do not know.

Q. Now, Mr. Thompson, you keep the run, do you not, of the statistics of ore production in the United States?

A. Yes, sir; I see it every year.

Q. Do you not know that last year, 1912, the production from the lake region was about 84 per cent. of the entire production of the United States?

A. I think that is about right, but the production was not all consumed. There was a lot of it brought down that was not used up until this year; put on the docks.

Q. If there had been a demand in the steel industry it might have been consumed?

MR. LINDABURY: Is he speaking of what was consumed in the United States?

MR. DICKINSON: No; I was asking about the production. That is all I asked him about.

MR. LINDABURY: He has not stated that that was the percentage of what was consumed in the United States.

MR. DICKINSON: No; I didn't ask him that.

THE WITNESS: No; we do not always consume all the ore that is brought down in the year it is brought down. We carry it over in the docks, a large quantity.

By Mr. Dickinson:

Q. In 1910 did not the Lake region produce about 80 per cent. of all the ore produced in the United States?

A. I would not be surprised; that is possibly right. I cannot recall the figures.

Q. What do you think about that?

A. Well, I should say that is approximately right, yes.

Q. Approximately right?

A. Yes; that is the way I have it in my mind; that is approximately right.

Q. How long before the Republic began to manufacture steel was it?

A. Why, they commenced in either 1901 or 1902; I am not just dead sure which. They started to put up the works in 1900, and I think they were a little over a year getting their converters started.

Q. So if they made any in 1901 it would be hardly appreciable, would it?

A. It would not be very much; no, sir.

Q. You spoke of the ores in the Cuyuna range; is it difficult or not to prove up the ore there?

A. You cannot prove it up like you can the Mesabi.

It runs in veins something like the old ranges, where they cannot measure it up and determine; and sometimes in the old range, you know, you will strike a good streak of ore and it will measure up good for years, and then it will play out, but you can discover some more. On the Mesabi the ore lays flat, and you can drill it and measure it up almost accurately.

Q. And on the Cuyuna you cannot take any given area and strike an average?

A. You can make a pretty fair estimate on a well drilled forty.

Q. But it must be well drilled?

A. It must be well drilled, yes.

Q. What is the metallic content of your ore that you spoke of on the Cuyuna range?

A. What we brought down is about 55.

Q. Is that dry?

A. Yes, dry; there is some higher than that, and some lower, but the average is about that.

REDIRECT EXAMINATION

By Mr. Severance:

Q. It is a fact, is it not, that new mines are constantly being discovered on the Lake Superior ranges?

A. Some new mines and some of the old mines are being extended very materially.

Q. So that it is impossible to tell now when the ores, even the high grade ores in that region, will be exhausted?

A. They are pretty well exhausted now; that is, the very high grades.

Q. I know, but what you call good merchantable ore now? I am distinguishing now.

A. There is lots of it that may not be developed.

Q. In speaking of high grade I am distinguishing between what you speak of now and what you stated a moment ago as billions of tons that would have to be treated in the future?

A. Yes.

Q. It would be impossible to give a definite estimate as to how long the ores presently merchantable will last, in view of the new discoveries that are constantly being made?

A. It would be only a partial guess. My own judgment is that the steel business is not going to double up every ten years as it has in the last four or five decades. You cannot do it; it will slow down a little. That is to say, in 1900 the production of iron was so much, and in 1910 it was double that. Well, they are not going to keep on doubling forever; there has got to be a stopping place.

Q. You stated a few moments ago in answer to counsel that the capitalization of your company was about $8,000,000?

A. It is a little under.

Q. And that you had $4,750,000 of bonded debt?

A. That is right.

Q. Have you also an accumulated surplus in your business?

A. Yes.

Q. Accumulated out of the profits of the business?

A. Yes.

Q. How much has that amounted to?

A. It shows there exactly.

Q. I am asking you to state it for the record. You have the statement before you that you used in answering Judge Dickinson?

A. Yes. On June 30th it was $4,786,412.

Q. In giving a list of the large competitors of the Steel Corporation did you intentionally overlook the Republic? You did not mention them.

A. Didn't I?

Q. No; you didn't mention the Republic.

A. I did overlook it. I intended to.

Q. You intended to speak of it?

A. Yes, because it is.

Q. You were asked for your information as to the capitalization of a number of these competitors and you gave it as far as you were able to.

A. That is something I do not like to do, because it is so easily ascertainable, and I have friends in all of them, and if they see some of my wild statements, they will say "He is pretty good at figures, but he is getting off on this." I do not like to go on record in that way.

Q. The estimate you gave as to the total output of those plants was your best estimate from your general knowledge of the steel trade, was it not?

A. Yes; I can first consider the number of blast furnaces they have, and the size of their blooming mill, and you can make a pretty good guess from that.

Q. Is the Republic Iron & Steel Company a fairly large concern now?

A. Yes; they have extended their plant. In the last two or three years they have added open hearth furnaces, which they never had. Originally they had iron mills, and they got into the Bessemer steel business in 1900; since that time they have gone to the open hearth.

Q. Where are their open hearth plants?

A. Youngstown, Ohio.

Q. Do you know anything about the tonnage output of the Republic, or the capacity, either one?

A. Yes; I have a pretty good idea.

Q. How much is it?

A. I should say that with their open hearth furnaces and Bessemer steel plant running full they could produce, exclusive of their iron mills, which are pretty near all closed, in round numbers a million tons a year of ingots, easily; if they are running full that is their capacity.

Q. Now, these other companies like Jones & Laughlin, the Cambria and the Bethlehem, and so forth, they have bonds on their property as well as stock?

A. Yes, I think most of them.

Q. Which would be added to the capitalization shown by the stock?

A. Well, in my statement of capital I did not consider the bonds at all. I was asked for the capital, and as to the underlying bonds, I did not consider them.

Q. But it is capital invested in the property, and you would have to take that into account also?

A. Yes; a bond is capital as much as capital stock.

Q. You do not carry in your mind the amount of bonded indebtedness of any of these companies, or do you?

A. No, I would not like to state it, not knowing accurately what it is. It is very easy to get that from Poor's Manual, absolutely accurate, and I hate to make guesses and get away out of the way on it.

Q. Mr. Thompson, you were asked by counsel if the Steel Corporation did not have some advantage over its competitors by reason of owning the Iron Range and Missabe roads hauling ore, and you answered that there would be some advantage in that.

A. Surely.

Q. Assuming that the rates prevailing on those roads were no greater than would fairly compensate the owner of the roads, in view of the value of the same, give a reasonable return on the investment, would there be any advantage possessed, then, over a steel industry that shipped over, say, the Great Northern or the Soo?

A. Not so far as delivering the raw material to the furnaces is concerned. They might have advantages in other ways on account of their location and various markets, the large number of plants they have, and so forth.

Q. But I am confining this wholly to the railroad matter. If the rates are only such as to fairly compensate for the service performed, and give a reasonable return upon the investment in the roads, then that would merely be a return upon an investment, such as any property owner might have, and would be no advantage from a manufacturing standpoint, would it?

A. No.

MR. DICKINSON: I object to that as leading and improper.

MR. SEVERANCE: I will change the question.

MR. DICKINSON: No; leave the question.

MR. SEVERANCE: I will put another question to cure your objection.

By MR. SEVERANCE:

Q. Assuming, as I said before, that the rate was only reasonably compensatory, considering the investment in the property and the cost of performing the service, would the Steel Corporation, as the owner of the Iron Range and Missabe, have any advantage over you or any other person who was shipping over another line of road at the same freight rate?

A. I cannot imagine where it would be, if they have any.

Q. You have just as good facilities for transporting down the lake with your vessels as they have with theirs?

A. Certainly. Absolutely, yes.

Q. Then you are on a parity as to that?

A. Yes.

Q. And you are on a parity as to assembling at Chicago?

A. Yes; so far as Chicago is concerned, that is true.

Q. It would not make any difference to the Steel Corporation, as a matter of dollars and cents, would it, then, if the rates only provided a reasonable return upon the investment and the cost of the service, whether they shipped over the

Iron Range or the Missabe or over the Great Northern, at similar rates? Would it make any difference?

MR. DICKINSON: That is objected to as leading, and because counsel is arguing with his own witness.

MR. SEVERANCE: I am not arguing at all. I am just asking a question.

MR. DICKINSON: That is a difference of opinion, of course.

THE WITNESS: Stating it as you do, it would put us all on a parity, of course. There is no question about that.

By MR. SEVERANCE:

Q. The answer that you gave to Judge Dickinson was in response to a question as to whether there was an advantage if there was any return or profit above the cost of operating the railroad, and you intended to answer it with reference to the question as put, did you not?

A. Yes.

Q. And you did not take into account any interest on the investment in the road at all, because that was not included in his question?

A. No.

MR. DICKINSON: This is objected to as leading, and arguing with his own witness.

By MR. SEVERANCE:

Q. Did you take into account, in giving that answer, the matter of any interest upon the investment?

A. No, sir; I did not.

Q. Counsel asked you whether you would claim to have as intimate a knowledge of the Steel Corporation as Judge Gary had, and you stated that you would not. What is your claim as to whether or not you have as intimate a knowledge as Judge Gary has of the Inland Steel Company?

A. Well, I ought to have more knowledge than he has; but the Judge is pretty well posted on the output of all the independents, just the same as we all are. The statistics are all open and above board, and anybody can read them. They are published.

Q. And you can read the statistics of the Steel Corporation, can you not?

A. Certainly, I do; yes, sir.

Q. And are the statistics of all the companies open to you as well as to Judge Gary?

A. I would not say all of them, because some of them do not give out as much information as others.

Q. You have the same facilities for acquiring information as to those that do make public their statements, have you not?

A. I should say so; yes, sir.

Q. And do you follow those matters?

A. We make a statement only once a year to our stockholders. Some do it every six months and some every quarter. We do it once a year.

Q. Do you see those as they are published from time to time by different people?

A. Mostly, yes; all that are published. We are naturally interested in reading them over to see how much they are beating us, so that we may get a move on and see if we cannot help a little. Of course, we are interested, the same as we are all interested in reading those.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all.

H. H. HAMMOND

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. I believe you are a lawyer by profession, Mr. Hammond?

A. Formerly; yes, sir.

Q. Are you now connected with a steel industry?

A. Yes, sir.

Q. When did you become connected with it directly?

A. In 1905.

Q. Before that you were counsel for the concern?

A. Yes, sir.

Q. For how many years?

A. For about eight years.

Q. Do you hold any office in the corporation?

A. Yes, sir; I am treasurer.

Q. How long have you been treasurer?

A. Since 1905.

Q. What is the name of the concern?

A. The McMyler Interstate Company.

Q. Where is it located?

A. In Cleveland.

Q. What does it manufacture?

A. We manufacture a general line of machinery for handling coal and iron ore, such as cranes, car dumpers, bridge tramways, and so forth, and a full line of orange-peel and clam-shell buckets—in fact, we claim to make all kinds of appliances for handling all kinds of material. We also fabricate structural steel for building work.

Q. What was the size of this concern in 1900?

A. In 1900 the company was very small. I should say its net worth was probably not more than $100,000.

Q. How many men did it employ?

A. Not more than 50, probably, or 75.

Q. Has it grown any since then?

A. Yes, sir.

Q. Regularly?

A. Yes, sir.

Q. I mean, more or less evenly?

A. Yes, sir; some every year.

Q. How much has that net worth, as you call it, increased?

A. At the time I became active in the business the net book value of our company was about $350,000. That was the 1st of July, 1905.

Q. That represented the growth since 1900?

A. Yes. At the close of the business year, 1912, the book value of the company, according to its statements, was about

$2,350,000. That was at the beginning of this year, and there would be some increase, probably, since then. However, we do not know what it is. We close at the end of the year.

Q. Was that occasioned by the putting in of new capital, or did it result from the profits of the business?

A. Some part of it, a large part of it, resulted from the profits in the business, and some of it resulted from the taking over of a plant of a competitor that was ready to quit.

Q. Was any new capital put in?

A. No new capital was put in; no, sir, except that when we took over a plant of a competitor that was about to fail, we got their plant, and of course that represented capital, because it increased our output since the 1st of January, 1910; we are able to handle more stuff.

Q. What steel products do you purchase for your requirements?

A. We purchase a little of everything. Of course, making a miscellaneous line of equipment, we have occasion to use a little of all the stuff that they make, but principally bars—by that, I mean rivet stock; we make all our own rivets, and we buy the stock for them; and plates; we use a lot of plates and shapes. The other stuff, the general lines outside of those—the amount we use would be so small that it would not be worth considering.

Q. How long have you been buying shapes?

A. We have always bought some shapes; but not very much prior to the 1st of January, 1910.

Q. How long have you been buying bars and plates?

A. We have been buying bars and plates always, in proportion to the size of our business.

Q. Have you bought your bars and plates on a competitive basis?

A. Yes, sir.

Q. Have you usually purchased on contracts for future delivery, or in what way?

A. Well, we have sometimes purchased on contracts for future delivery; a certain percentage of our business would be that way; naturally, when we thought in our own minds that prices were going up, if we could buy something to come

along during the year to keep our stocks up in shape, why, we would do it. A certain percentage of our business also is covered by—for instance, when we take a certain specific contract, at the time of putting in our bid on that contract it is necessary for us to protect ourselves and contract accordingly.

Q. Do you obtain quotations usually when you are ready to buy?

A. Yes, sir.

Q. From whom, on bars?

A. From all the manufacturers; that is, from the ones that we do business with. We obtain quotations from the Carnegie and Cambria, and the Lackawanna, and J. & L.—Jones & Laughlin—and there are one or two little independent mills in Cleveland that we get quotations from sometimes.

Q. Do you ever invite quotations from the Republic?

A. We have never done any business with the Republic. I believe we have had two or three invoices from them in the past ten years, but not much; we do not know them.

Q. From whom do you obtain quotations on plates?

A. On plates it would be Carnegie and Jones & Laughlin and the Lackawanna, and the United Steel Company, of Canton, on certain sizes; they make the universal plates—the small ones—and Worth Brothers, and Otis.

Q. Have you found the quotations on these steel products generally variant or generally uniform?

A. We have found that, as a general proposition, there would be a variance in the quotations. Our business is strictly on the price basis. We have had no affiliations whatever with any mill in any way whatever, and my instructions to our purchasing department are to buy absolutely where the material can be bought to the best advantage, and, to the best advantage, to us, means where it can be bought for the least money, because the competition in our line of business is very keen, and we have to figure things right down to the last cent. Of course, there are times—there have been times, when some of the prices that we would get would be the same—some of them. Those circumstances would generally happen where the business condition throughout the country was very good,

where business was moving along smoothly, and where the mills were not after business. That was my own idea of it, but sometimes when there would be a break in business, or when there were signs of demoralization of business, there would be a greater fluctuation then or difference then than there would be at other times.

Q. Have you any means of telling what prices you paid during any of the years that you have been in business, for bars and plates?

A. Yes, sir; some. In 1904—that was before I was actively connected with the steel business—I knew something about it as representing one or two companies that were interested in the business, and I understood in a general way then that there was a pool or some kind of an understanding on plates, among the plate mills. I never knew very much about what it was, because I was not directly interested in it then, but in 1905, after that was broken up, we found in 1905 a considerable variation in plates, and I call to mind one particular time along in June, I think it was, 1905, where we bought—where we placed orders with various people for plates, on or about the same date, when there was considerable variation in price.

Q. Have you got a memorandum of the prices at which you actually placed those contracts?

A. Yes, sir.

MR. DICKINSON: Before he uses that, I would like to ask him something about it.

THE WITNESS: All right, sir.

MR. LINDABURY: I will do that, Judge.

MR. DICKINSON: Very well.

By MR. LINDABURY:

Q. When was that made up?

A. What do you mean? When was what made up?

Q. The memorandum that you have?

A. Why, within the last few days, at my office in Cleveland.

Q. From what?

A. From the original records.

Q. From the original records?

A. Yes.

Q. And what does it give or show?

A. Well, it gives the date upon which we placed the order, and the prices we paid for the material.

Q. And the concern to which you gave it?

A. Yes, sir.

Q. Please tell us what purchases you have memoranda of that were made in 1905, in plates, giving the name of the concern from which you purchased, the date, and the price?

Mr. Dickinson: I object to the witness using this memorandum, which is secondary evidence, based on the records which are themselves primary evidence, and which are not produced.

By Mr. Lindabury:

Q. That objection being made, I will ask you if you know whether or not the figures you have on that memorandum correspond with the contracts themselves?

A. Yes, sir.

Q. Have you the contracts with you?

A. Yes, sir.

Q. Here in court?

A. No, sir.

Q. Downstairs?

A. Yes, sir.

Q. You may go on and make your answer.

Mr. Dickinson: I renew the objection.

Mr. Lindabury: The contracts, I will state, will be produced and will be at the service of the other side. It is a mere matter of convenience, that is all.

The Witness: Well, in connection with the contracts, perhaps I did not understand the question correctly. We have the original orders which were accepted. You understand, in making out an order, we make out an original, and, at the same time, that makes a carbon copy. We keep the original, of course, and the mills fill the order and send us their invoice. I have both the invoices and the original orders. That would probably constitute a contract, to meet all requirements.

MR. LINDABURY: Now, go on and give us the figures.

MR. DICKINSON: You are speaking now from the memorandum?

THE WITNESS: Yes, sir. June 28, 1905, an order was placed through the Bourne-Fuller Company, shipped from the Carnegie Steel Company, at 1.45½. On the same date an order was placed through the Bourne-Fuller Company with the Carbon Steel Company, at 1.44¾. On the 20th of June, 1905, an order was placed, through the Bourne-Fuller Company, with the Cambria at 1.51; and on the 7th day of July, 1905, an order was placed with the Otis Steel Company at 1.69¾.

By MR. LINDABURY:

Q. Have you also memoranda of purchases made in the following two years? I mean, purchases of plates, now, together with——

A. (Interposing) I have not anything in 1906, no, sir.

Q. You have not?

A. No, sir.

Q. Have you in 1907 and 1908?

A. I have in 1907 and 1908.

Q. Please give us the purchases for 1907 and 1908.

MR. DICKINSON: I ask if that is the same memorandum, made in the same way? If so, I will put in the same objections.

By MR. LINDABURY:

Q. Have you with you the contracts for all the purchases?

MR. DICKINSON: I will not put you to that. Just ask him if it is the same.

MR. LINDABURY: Let me do it in my own way.

MR. DICKINSON: All right; no objection at all.

By MR. LINDABURY:

Q. Have you with you the contracts for all the purchases shown on the memorandum you have before you?

A. Yes.

Q. And have you on that paper a memorandum of the purchases made in 1907 and 1908, of plates?

A. Yes.

Q. You may give them.

Mr. Dickinson: This is objected to on the same grounds as stated in the objection to the other memorandum.

By Mr. Lindabury:

Q. You personally examined these contracts, as I understand you?

A. Yes.

Mr. Lindabury: I will state again that this is merely for convenience, that the contracts are here and are at the disposal of counsel for the Government.

The Witness: Shall I go ahead with 1907?

By Mr. Lindabury:

Q. Yes.

A. On plates: January 2, 1907, we placed an order with Lukens at $1.69¾. On the same day with Carnegie at $1.74¾. On the 26th day of February, 1907, we placed an order with Otis for $1.64¾; on March 8, 1907, Otis, $2.04¾.

That same price also applied to two orders placed with Otis on March 18th and the 16th of April. On March 18 we placed an order with Worth Brothers at $1.64¾; on May 28, 1907, we placed an order with Otis for $2.04¾, and on the same day we placed an order with Cambria for $1.74¾. That same price, that last price, was also the price on orders with Cambria on the 6th day of June and the 8th day of June; and also on the 7th day of July, 1907.

On the 8th day of July, 1907, we placed an order with Otis at $1.85. On the 20th of December, 1907, we placed an order with Cambria at $1.75; on the 20th day of March, 1908, with Otis at $1.75; on the 8th day of August, 1908, Otis, $1.65, and then on the 27th of August and the 2nd of October, 1908, we placed two more orders with Otis at $1.65.

On the 11th day of September we placed one with Lukens at $1.65, and that is all.

Our purchases of plate during 1908 were very light, because the business broke during the latter part of 1907.

Q. What prices did you pay for bars, and from whom did you purchase them, and when, during 1907 and 1908? Give it in the same way.

A. Well, we purchased bars from Carnegie and the Lockhart Iron & Steel Company.

Q. No, give it the same as you did before.

A. All right. On December 31, 1906—that is the beginning of 1907, when the order was placed—Carnegie, $1.54\frac{3}{4}$; January 2, 1907, Carnegie, $1.64\frac{3}{4}$. April, 1907—I have forgotten the date on this—Lockhart Iron & Steel Company; there were four orders placed with the Lockhart Iron & Steel Company in April, 1907, two of them at $1.90 and one at $1.85, and one at $1.95.

Mr. Dickinson: Is this a continuation of the same memorandum all along?

Mr. Lindabury: The same one.

The Witness: (Continuing) June 20, 1907, Cambria, $1.75; August 24, 1907, Cambria, $1.75; October 1, 1907, Cambria, $1.73; October 11, 1907, Bourne-Fuller Company, $1.65; October 15, 1907, Cambria, $1.76\frac{1}{2}$; October 24, 1907, Cambria, $1.65; March 18, 1908, Cambria, $1.66\frac{1}{2}$. That price also applies to orders of March 16 and April 22, 1908. August 29, 1908, Carnegie, $1.45.

By Mr. Lindabury:

Q. Are those all the contracts you made during those periods?

A. No, sir.

Q. Upon what principle were those selected, and how came you to bring and collate those only?

A. Why, I instructed my purchasing agent to go through his accounts and prepare a list during the years 1907 and 1908 that showed variation in prices.

Q. Are those all that showed variation or were those the principal ones?

A. Those were the principal variations, to show where it was widest.

Q. There were other contracts?

A. Yes.

Q. Do they also show variations, to a lesser extent?

A. Yes; I cannot say what variation they showed, but I know there was generally some variation; I could not say to what extent.

Q. How came you to have this gotten out for these two years?

A. You mean as to why those two years were selected?

Q. Yes; were you requested to do it?

A. My idea of those two years, particularly 1907—I went into that as fully as I could because 1907 represented a period of great business activity at first, and of great depression at the last. I was not requested by anybody to do it. It was morally impossible for me to go through all of our records for the last ten years, so I got what I thought would be the best.

Q. You have spoken of the wide extent of the quotations that you obtained; have your purchases also been spread around among these concerns that you have named?

A. Yes.

Q. What percentage of your purchases have been made from the Carnegie Company?

A. Not more than 25 to 33⅓ per cent.

Q. How did it happen that the balance were made from others?

A. The only reason that can ever happen, and that is that we were buying strictly on a competitive basis, and we were buying where it was to our interest to buy. Sometimes it would be a matter of price—generally, of course—but there are other conditions that might enter into it; the question of delivery sometimes becomes very important, on a proposition of that kind.

Q. And have these purchases from the Carnegie Company been distributed through the years since 1905, or were they all bunched in one year?

A. Oh, they were distributed.

Q. As that company would be higher or lower than the others?

A. Yes; or as they should be able to make better deliveries sometimes.

Q. And have you purchased also from Jones & Laughlin?

A. Yes, sir.

Q. And from the Cambria Company?

A. Yes, sir.

Q. And from the Lackawanna Company?

A. Yes, sir.

Q. And from the others you named?

A. Yes, sir—the Bethlehem, the Eastern Steel Company, Worth Brothers, Lukens, Otis, the United Steel.

Q. How have you happened to give them your orders? For the same reason you mentioned?

A. Purely on a competitive basis, either on price or delivery.

(Whereupon an adjournment was taken until to-morrow, Thursday, December 4, 1913, at 10.30 o'clock a. m.)

ONE HUNDRED AND TWENTY-FOURTH DAY.

EMPIRE BUILDING,
71 Broadway, New York City,

Thursday, December 4, 1913.

Before Special Examiner JOHN ARTHUR BROWN.

Present on behalf of the United States, MR. DICKINSON and MR. COLTON.

Present on behalf of the defendants, MR. LINDABURY, MR. SEVERANCE and MR. BOLLING.

H. H. HAMMOND,

the witness under examination at the taking of adjournment, resumed the stand.

DIRECT EXAMINATION (Continued)

By MR. LINDABURY:

Q. In your purchases of plates and bars and other steel products that you purchased during the period which has elapsed since you became treasurer of the McMyler Company, have you observed any indication of a combination to fix or maintain prices between the different manufacturers of the steel products which you purchased?

MR. DICKINSON: This is objected to as incompetent because it calls for a conclusion and opinion of the witness upon a state of facts that may be in his own mind and not revealed to the court, and also his opinion on a mixed question of fact and law.

MR. LINDABURY: As you have made that objection a good many times, and will doubtless desire to make it to all such questions, I am wondering if we cannot by some stipulation make it cover similar questions, without being put on the record every time.

MR. DICKINSON: Yes. Just add there: It is agreed by counsel for both parties that whenever questions similar to

the above are asked any witness for the defendants, it is understood that, without repeating it, it shall be regarded that the foregoing objection has been made to all such questions the same as if entered upon the record at the time the question is asked.

MR. LINDABURY: I agree to that; and further, if in the opinion of counsel it may at any time seem worth while, that the specific objection may be entered upon the record.

(The pending question was repeated by the stenographer.)

THE WITNESS: No.

By MR. LINDABURY:

Q. Has there or has there not been competition between the manufacturers from whom you have obtained quotations for your trade in the product which you have purchased, as you have stated?

A. Yes; there always has been competition.

Q. Has that competition been active?

A. Yes.

MR. LINDABURY: Take the witness.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Hammond, your actual connection with the steel business began, I believe, in 1905?

A. Yes.

Q. Before that you were a lawyer?

A. Yes.

Q. You carried on your business of law, I suppose, in an office separate from that in which the company carried on its business?

A. Yes.

Q. What date in 1905 did you actually connect yourself with the steel business?

A. July 1st.

Q. Does what you have said in regard to your knowledge of prices and quotations and competition refer to the period from July 1st?

A. From July 1st on, yes; that was when my active connection with the business began.

Q. I want to know whether you have meant to testify as to any knowledge back of that. I want to limit the cross examination to that.

A. I think that would be right. I had some little knowledge before that, but not much. My actual connection began July 1st, 1905.

Q. And what you have said about prices and competition, and so forth, is from that period on?

A. Yes.

Q. Now, in the year 1905, what tonnage in steel products did that company buy?

A. I could not answer that.

Q. Could you approximate it?

A. No, sir, not properly. That is quite a ways back.

Q. Well, what were your duties in 1905, say the last half of the year?

A. The last half of the year treasurer of the company and then general office manager of the office end of the business.

Q. During that time who purchased for your company?

A. Mr. E. F. Hammond.

Q. What position did he hold at that time?

A. He was purchasing agent.

Q. He was purchasing agent?

A. Yes.

Q. Did he have full authority and control at that time?

A. Under our direction.

Q. Under whose direction?

A. Mine.

Q. You had been inexperienced, then, in the question of buying and purchasing?

A. No; I don't think so. I had some considerable experience before that.

Q. I understand that, but your business before that had been primarily that of a lawyer?

A. Well, in other lines also.

Q. In 1905 to what extent did you actively participate in placing the purchases, and how far did Mr. Hammond participate?

A. In 1905 I was made the manager of that part of our business, and I was responsible for it then.

Q. You were responsible for it?

A. I took up the charge of it at that day.

Q. You mean from that time on?

A. Yes.

Q. Wait a moment; you mean that from that time on the purchases were passed upon by you?

A. No, sir.

Q. What character of purchases were passed on by you?

A. Matters of importance, the larger matters and matters involving any larger sums of money, or matters that might have affected the policy of the company. Of course, small matters we allowed our purchasing department to order direct without consulting with the company.

Q. And in those matters he acted upon his own responsibility?

A. Yes.

Q. He was a man of character, in whom confidence was reposed, and was a man of experience?

A. He had not much experience at that time?

Q. How long had he been connected with the company in that manner?

A. About six months.

Q. That is to say, he began in the year 1905?

A. I do not think he had been purchasing quite that long, but he had been purchasing only about thirty days at the time I came in, come to think of it.

Q. Can you state, now, from memory, the proportion, in the last half of 1905, of purchases that were made by him, and the proportion of purchases that came under your direct supervision?

A. No, sir; I could not state that, but the purchases were made by him over his signature, but under our direction, where it was an important matter.

Q. But I understand you to say that there were classes of matters which you termed important that you directly took control or supervision of, and that there were other matters——

A. Not directly as to purchasing——

Q. I mean, the responsibility?

A. Yes, sir.

Q. And in that way they came under your personal observation?

A. Yes, sir.

Q. And there were others that did not?

A. Yes, sir.

Q. And you cannot now give any estimate of the percentage?

A. No, sir; I cannot do that now.

Q. How would that be for subsequent years?

A. I do not think I could do that for any year.

Q. Take the year 1905: do you know how many transactions in the way of purchases your company made of steel products in the last half of 1905?

A. No, sir.

Q. Could you approximate it from memory?

A. No, sir.

Q. Could you for any of the years down, say, to 1912, inclusive?

A. No, sir; I could not even do that for 1913.

Q. I suppose that you had quite a number of transactions each year?

A. Yes, sir; naturally.

Q. You gave, in your direct examination, certain prices which you paid under the contracts to which you specifically referred. I will ask you whether or not those prices were not for different sizes; in other words, were those prices not for different sizes?

A. Without examining them I should say they covered a great many different sizes.

Q. Were those prices for delivery at Cleveland or not?

A. Yes, sir.

Q. That is to say, the prices included freight?

A. They were bought on the Pittsburgh base, with freight allowed.

Q. Who paid the freight; you or the vendor?

A. Naturally we paid it.

Q. These prices that you have given in your direct examination——

A. Are delivered prices.

Q. They were delivered prices?

A. Yes.

Q. For different sizes?

A. For different sizes; but while I have not examined them as to that, of course the plate takes the same prices. There are certain limits where it takes extra prices; for instance, the smaller gauges. That I cannot give you from memory, but I have that all tabulated in my office, of course, for reference.

Q. We have not the time now to go back to that; but some of these you have quoted under these contracts were such as took extra prices, were they not?

A. No, sir; I think not. I think they are the standard line. I forget the dividing line, where they begin to take extra prices, but our effort in producing those bills was to produce invoices that did not take the extras.

Q. You do not know what that dividing line is?

A. No, sir; I do not recall just now.

Q. There is such a dividing line?

A. Yes, sir; the lighter gauges take a higher price; but we use very little of them.

Q. You do not know how many of these contracts may cover those gauges?

A. Very few, if any. We use very little of the lighter gauges. The amount of the lighter stuff we use is hardly enough to mention. Our stuff is all heavy.

Q. I understand you to say a great many of the contracts during 1905, 1907 and 1908—those are the years, I believe, from which these selections are made?

A. We had quite a good many during 1905 and 1907; not so many during 1908.

Q. You had a number, did you?

A. We had some.

Q. Do you know how many?

A. I do not.

Q. You did not go over and examine them?

A. No, sir.

Q. You did not go over and examine all those for 1907?

A. No, sir.

Q. Nor for 1905?

A. No, sir.

Q. Someone else did that?

A. Yes.

Q. Under general direction from you?

A. Yes.

Q. You do not know, now, what these other contracts, which were not selected, show?

A. No, sir.

Q. For sizes you have not checked these up, have you, so that you are able to say how many of them come within the dividing line that requires extras?

A. No, sir; I have not checked them up, but they speak for themselves.

Q. Have you any recollection now of any of the prices that were quoted you in 1905, other than those which are shown in these contracts?

A. Not in detail; no, sir.

Q. Could you give, upon any purchase, who quoted prices, and what the relation between the various quotations was?

A. No, sir; I could not do that, for this reason: we are right there in Cleveland, and whenever we have any work coming along, when we get our quotations, it is done either by telephone or usually by personal interview, and naturally I could not remember that stuff so that I could testify to it in detail.

Q. Were not a great many of your purchases made, so to speak, as your exigencies required, on short notice?

A. Some.

Q. Would you not make some of the purchases, then, by taking it up directly with one manufacturer?

A. Sometimes.

Q. Do you know for 1905, or any of these years, what proportion of the purchases were disposed of in that way?

A. No, sir; I do not.

Q. Going back to these purchases for which you gave the prices, under these selected contracts for the years 1905, 1907 and 1908; do you know whether any of those contracts were for prompt shipment?

A. I could not say about that.

Q. Or whether the prices were based to some extent upon prompt shipment?

A. I could not answer that question. There is nothing in the document that shows. My recollection does not go back that far.

Q. You could not make any statement now in regard to that?

A. No, sir.

Q. I suppose at times you did pay a higher price for prompt shipment, did you not?

A. Naturally that would arise sometimes; yes, sir.

Q. You cannot state how often that may have arisen?

A. No, sir. I recall one that I testified to yesterday, where we paid a very high price for some material to get prompt shipment, yes.

MR. COLTON: Was that $2.04?

THE WITNESS: No; that Lockhart Iron & Steel Company matter; that was a case of prompt shipment, but that was not the $2.04. The $2.04 matter was the Otis price.

By MR. DICKINSON:

Q. What year was that?

A. I do not recall. I think it was in 1907.

MR. LINDABURY: Shall I tell you, Judge?

MR. DICKINSON: No; never mind.

MR. LINDABURY: You only want his recollection?

MR. DICKINSON: Yes.

THE WITNESS: I think it was 1907.

By Mr. Dickinson:

Q. You do not know how many others there were of that character?

A. No, sir; I do not.

Q. On the Otis shipment of which you speak, what was the time within which delivery was to be made? Do you recall?

A. I do not.

Mr. Dickinson: That is all.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. Did you ever pay either Carnegie or Cambria a premium for prompt shipment?

A. No, sir.

Q. Did you ever negotiate, after receiving quotations, with any of these concerns for a price better than the quoted price?

A. Yes, sir.

Q. Was that on your larger or smaller orders, ordinarily?

A. Naturally on the larger orders.

Q. And were you able, in that way, sometimes to get a better price than some one or more of those who quoted?

A. I do not recall that we ever got a better price from Carnegie. We have generally been able to get a better price somewhere along the line, from some of the independents, as they are called.

Mr. Lindabury: That is all.

RECROSS EXAMINATION

By Mr. Dickinson:

Q. In the year 1905 what proportion of your purchases were from the Carnegie?

A. A very, very small amount, Judge. In 1905, as I testified yesterday, we were not fabricating structural steel; we were only using it where it was used in connection with or as part of our machines that we were building, and while we

bought a very little from them, yet generally we placed our orders at that time through Bourne-Fuller & Company for mill delivery with the various mills.

Q. You do not know what tonnage your purchases of steel products was in 1905?

A. No, sir.

Q. In 1906 do you know what your total tonnage was?

A. No, sir.

Q. Do you know what your total tonnage was in any of the various varieties of steel products that you bought?

A. No, but I know what it was since 1910.

Q. Do you know what percentage you gave Carnegie in any year, excluding 1905, between 1905 and 1910, and also excluding 1910?

A. No, sir; except that in a general way it was very small —very little.

Q. Do you carry in your mind any data at all which enables you to state approximately the percentage of steel products that you purchased from any of the persons from whom you did purchase during that period?

A. Not during that time; no, sir; you mean back of 1910?

Q. I mean 1906, 1907, 1908 and 1909?

A. No, I could not do that intelligently.

Q. You could not say intelligently what percentage you may have gotten from either during that time?

A. No, sir.

Q. Could you as to 1910?

A. From 1910 to the present time, inclusive, we have given the Carnegie Steel Company between 25 and 33 1-3 per cent. of our entire tonnage.

Q. Take the year 1913; have you bought anything from the Carnegie?

A. Yes, sir.

Q. What tonnage?

A. Oh, I should say about three thousand tons.

Q. Have you bought anything from any other of the subsidiaries of the Steel Corporation in 1913?

A. Very little, except direct from Carnegie.

Q. How?

A. Very little; there might be little odds and ends, but not much.

Q. What has been the entire tonnage bought by you in 1913?

A. About ten or eleven thousand tons.

Q. From whom did you buy that other than what you got from the Carnegie?

A. From Lackawanna, Bethlehem, Jones & Laughlin, Cambria, Otis, United Steel, Eastern Steel.

Q. Now, you have named seven, other than the Carnegie?

A. Yes, sir. Did I name the Lackawanna? Have I got that?

Q. Yes.

A. That is all I think about now, except some little odds and ends.

Q. Did you buy from any one of these others that you have named as much as 3,000 tons in 1913?

A. Yes.

Q. Which one?

A. I think we bought more than that from Lackawanna.

Q. More than 3,000 tons?

A. Well, I have not figured that up, but that would be my judgment.

Q. What have you bought from Bethlehem?

A. Probably in 1913 not more than 500 ton. We never——

Q. (Interposing) Jones & Laughlin?

A. Well, the balance would probably be equally divided between Jones & Laughlin and Cambria, and the other mills.

Q. That is to say, 3,000 to the Carnegie and 500 to the Bethlehem, and something over 3,000 to the Lackawanna, and the balance divided about equally?

A. I should say so; yes, sir.

Q. Did you buy at any time anything from the Bourne-Fuller Company where the delivery was direct from Carnegie to you?

A. Yes, sir; that was in 1905 only. That was in connection with those matters we testified to yesterday concerning the year 1905.

Q. You bought them direct from Bourne-Fuller, then?

A. We bought them from Bourne-Fuller for mill delivery.

Q. And from their quotations?

A. Yes, sir; but, of course, we knew what the other quotations were.

Q. You did not know when they contracted with the Carnegie for them?

A. No, sir.

Q. Nor what price they paid the Carnegie for them?

A. No, sir; naturally not.

MR. DICKINSON: That is all.

MR. LINDABURY: That is all.

MR. SEVERANCE: Mr. Cutler.

FERDINAND E. CUTLER

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Cutler, where do you live?

A. Waterloo, Iowa.

Q. How large a place is Waterloo?

A. About 33,000.

Q. That is located in the northern part of the state, is it not?

A. Yes, sir; north——

MR. DICKINSON: (Interposing) Northeast, rather, is it not?

MR. SEVERANCE: Well, I would say about the northern.

THE WITNESS: It is a little northeast of the center. It is called the northern part. It is 100 miles west of the Mississippi.

By MR. SEVERANCE:

Q. What is your business, Mr. Cutler?

A. Wholesale hardware.

Q. How long have you been in the hardware business?

A. About 47 years.

Q. How long have you been wholesaling hardware?

A. I have been wholesaling exclusively thirteen years. We began when we were in the retail business, wholesaling a little before we disposed of our retail business. We began about eighteen years ago to wholesale a little in connection with the retail.

Q. Are you and have you for the last ten or twelve years been a customer of any of the subsidiaries of the United States Steel Corporation?

A. Yes; we have been dealing with the American Steel & Wire Company; United States Sheet & Tin Plate——

Q. (Interposing.) American Sheet & Tin Plate?

A. Yes; American Sheet & Tin Plate.

Q. You have bought from those two companies?

A. Yes, sir.

Q. What has been your practice in buying from the American Sheet & Tin Plate Company? What character of commodities have you bought from them?

A. Sheet iron, black and galvanized, and planished iron.

MR. COLTON: Excuse me, Mr. Severance. Would you ask him whether that is steel or not?

MR. SEVERANCE: What?

MR. COLTON: Would you ask him whether that sheet iron is not steel?

By MR. SEVERANCE:

Q. You mean sheet steel, do you not?

A. Yes; part of it is sheet steel, but Woods Refined is iron instead of steel.

Q. Wood's Refined is a brand?

A. Yes, sir; supposed to be of extra quality.

Q. Made by the Sheet & Tin Plate Company?

A. Yes.

Q. That is an old product, is it not?

A. Yes.

Q. That is not steel, but iron?

A. That is iron.

Q. What other brand of sheet steel have you been in the habit of buying from the American Sheet & Tin Plate Company?

A. We buy the black sheet steel; there is no special brand on that. Then we buy the planished iron; that is an imitation Russia, and takes the place of the genuine Russia; and then galvanized sheets.

Q. What kind of sheet is what is called the Apollo brand?

A. The Apollo is galvanized.

Q. Is that a sheet that has some reputation in the market?

A. Yes; we think it has the best reputation of any galvanized iron.

Q. In what territory do you market your goods?

A. Principally in Iowa; two-thirds of the northern part of the State, and a few tons in southern Minnesota.

Q. In general, about what is your annual turnover in your store? What are your annual sales?

MR. DICKINSON: Excuse me a moment; are you speaking of everything or only steel products?

MR. SEVERANCE: No; he does a general wholesale hardware business.

THE WITNESS: What was the last question?

By MR. SEVERANCE:

Q. About how much is your annual turnover in your store; about how much business do you do?

A. About $700,000.

Q. That is in all lines, hardware and everything?

A. Yes.

Q. Do you purchase, or has it been your practice to purchase a portion of your requirements in sheet steel of other companies than the American Sheet & Tin Plate Company?

A. Yes.

Q. What other companies do you deal with; what other makers?

A. Well, we bought of the Berger Manufacturing Company and bought of Merchant & Evans.

Q. They are Philadelphia people, are they not?

A. Philadelphia; and the St. Louis Stamping Company.

Q. Do you buy anything of the Inland Steel Company?

A. From the Inland we buy black sheets; I cannot recall any others just now.

Q. Do you buy anything from the American Rolling Mill at Middletown?

A. From the American Rolling Mill we buy some.

Q. They are at Middletown, Ohio?

A. Yes; that was galvanized.

Q. Have they any peculiar kind of product that they are pushing in the market in the line of sheets?

A. They have, but we have not bought any of that.

Q. Only the galvanized sheets?

A. Only galvanized sheets of them.

Q. In making your purchases of sheets, do you secure quotations?

A. Yes.

Q. And have you or have you not placed your orders on a competitive basis?

A. Yes; considering quality.

Q. What has been the fact as to whether quotations that you have received from different manufacturers have been uniform or varying?

A. Varying.

Q. You say you have placed your orders on a competitive basis, quality considered. What do you mean by that?

A. Well, there are some mills that do not make as good a quality; it is harder and does not work freely, and we try to avoid that, we try to buy a good quality always.

Q. Are these sheets that are sold by certain mills that you just mentioned, which you do not consider as of as good quality, sold in competition with the sheets that you handle?

A. Yes.

Q. Have you handled any tin plate?

A. Yes.

Q. Have you handled large quantities, or small quantities?

A. Not very large quantities.

Q. Where have you bought that tin plate?

A. We buy of N. & G. Taylor Company, Philadelphia; the

American Sheet & Tin Plate Company; the McClure Company, and bought a little also from the Berger Manufacturing Company, and Merchant & Evans.

Q. Have you bought anything from Carnahan?

A. Yes; we have not dealt with them a great deal.

Q. Do you place your orders for tin plate on competitive bids?

A. Yes.

Q. Have you secured quotations in buying tin plate?

A. Yes; always.

Q. And have those quotations from different makers been uniform or varying?

A. Varying. I do not know that they have ever been uniform, ever been the same.

Q. Is there a brand of tin plate made by the N. & G. Taylor Company that has some particular standing in the market?

A. Yes; Taylor's "Old Style," they used to call it. They changed the name recently. A good many factories would brand their tin "Old Style," and they changed to the "Target and Arrow" brand, but the same quality that they made for years; about a century, I guess. That is considered the highest grade plate in the market made by any one.

Q. Do you handle considerable of that?

A. Yes; for the amount of business we do.

Q. How does the price that N. & G. Taylor make for their product ordinarily compare with the price for a similar character of tin plate sold by the American Sheet & Tin Plate Company?

A. Well, that is about the same as the American; it is usually a little higher than the grade the American considers the same.

Q. I judge from what you say that you regard the Taylor tin plate as of a little higher grade?

A. A little higher grade, and it has a reputation also that helps to sell it.

Q. That has been made for a good many years?

A. Yes.

Q. Do you buy wasters?

A. Not very much; small quantities.

Q. What other tin plate and sheet mills are there that quote you prices and solicit your business, if any, outside of the ones you buy of? That is, if you remember any others?

A. There is Scott & Company; that is tin plate.

Q. You are speaking of tin plate. Give the tin plate and then answer as to sheets.

A. Scott & Company; that is tin plate. I do not recall the others now on tin plate.

Q. On sheets?

A. There is the Youngstown Sheet & Tube Company; and—I can not think of the mill now—they make a special brand; they make the "Ingot sheets."

Q. Is it called the "Ingot sheet"?

A. Yes.

Q. You do not remember the name of the mill?

A. I can not recall it just now.

Q. It is not the Stark Company? Do they make "ingot sheets"?

A. No; they make the regular goods. Yes, they solicit our business quite often.

Q. How is this solicitation of business carried on? Is it by correspondence or by personal visits by traveling men?

A. Both. Nearly all of them have representatives. They call on us frequently, and then they solicit also by mail and occasionally by 'phone.

Q. Has the competition in the classes of products that we have been discussing, sheets and tin plate, been continuous or intermittent?

A. Yes. There are times when it is not as strong, but there is always competition; they are always soliciting business.

Q. You spoke of buying from the American Steel & Wire Company also. What class of products have you bought from the American Steel & Wire Company?

A. Nails, smooth wire, barbed wire, staples, poultry netting staples, wire clothes line, brads and tacks, finishing nails, and a few other items in small amounts.

Q. Take these up separately; take the matter of nails, which was the first one you mentioned; have you bought nails also from other mills or dealers than the American Steel & Wire Company?

A. Yes, sir.

Q. From whom?

A. We have bought from the Grand Crossing Tack Company, the Northwestern Barbed Wire Company, the Pittsburgh Steel Company, the Cambria Steel Company.

Q. Any more?

A. I do not think of any others just now.

Q. What is your experience in buying nails; do you buy them on a competitive basis?

A. Always.

Q. Do you receive quotations from different mills?

A. Yes, sir.

Q. Are those quotations uniform or varying?

A. They vary. They are very seldom the same.

Q. In times of great demand and great activity what is your experience, if you have had any, in receiving quotations from the American Steel & Wire Company and these other mills, as to which would ordinarily be higher? Would the Steel & Wire Company be higher, or would the outside mills be higher in times of great demand?

A. The outside mills are usually higher. That is, they are not cutting their prices in such times.

Q. In times of a demoralized market, when there is little demand, and great pressure to sell, which are ordinarily the higher, the American Steel & Wire Company or the other mills?

A. The American is almost always higher in such times. The outsiders, or the independents, as they are called, are cutting the prices then, or offering inducements occasionally in other ways—times of shipment, making longer contracts and so forth.

Q. Taking it at all times—good times, bad times, normal times—what is the fact as to whether the competition has been continuous in wire products?

A. Yes, sir; there is always competition in the wire products.

Q. You said that you handle some woven wire fence. Is that a large or small branch of your business?

A. That is a small branch.

Q. What fence do you handle?

A. We handle the Banner fence.

Q. Who makes that?

A. That is made by the American Steel & Wire Company; then the Griswold fence, made by the Griswold Manufacturing Company; and we have had the Kokomo fence.

Q. Did you ever handle the fence of the Northwestern Barbed Wire Company?

A. Yes, sir; the Northwestern.

Q. How are the prices quoted by the different manufacturers—uniform or varying?

A. They vary. There is a little difference in the style of fence that they all make, and they cannot compare prices on the fence as easily as they can on nails.

Q. Has the use of woven wire fence, as against barbed wire fence, increased or diminished in the last few years?

A. It has increased, and is increasing quite fast.

Q. Displacing the barbed wire?

A. Yes, sir.

Q. Are there other woven wire fence manufacturers selling their product in your territory?

A. Yes, sir.

Q. Can you name some of them?

A. I think all of those manufacturers that I named are selling in our territory; then the jobbers sell other makes, nearly all kinds. The jobbers or wholesalers are selling so that all kinds are sold in our territory.

Q. A good many different kinds?

A. Yes, sir.

Q. Is that a pretty active business now?

A. Yes, it is.

Q. Have you handled any coppered wire?

A. Yes, sir.

Q. From whom have you bought coppered wire?

A. We bought of the American Steel & Wire Company, the Cleveland Mill—I cannot tell the name now—and the Kokomo Steel & Wire Company, and Merchant & Evans.

Q. Do you make those purchases like the others, on a competitive basis?

A. Yes, sir.

Q. And are the prices quoted you uniform or varying?

A. They vary.

Q. Take the matter of tacks—you mentioned tacks: from whom have you bought your tacks?

A. Of the Grand Crossing Tack Company, the Atlas Tack Works, the Cleveland Tack Company, the American Steel & Wire Company, and a few of the Rockford Tack Company.

Q. Do you buy the larger or smaller percentage of tacks from the American Steel & Wire Company?

A. The smaller percentage. Their price is not good, usually, on tacks.

Q. You mean it is too good, do you not?

A. It is too good for them.

Q. They do not quote as low a price as the other people?

A. They do not quote as low prices; no, sir.

Q. You spoke of poultry netting: From whom have you bought that? I am asking this question generally, over the last series of years.

MR. DICKINSON: Over what series of years are you asking?

MR. SEVERANCE: The last ten or twelve years. All of my questions have been directed to that.

By MR. SEVERANCE:

Q. You understood all of my questions applied to that, did you not, Mr. Cutler?

A. Yes.

Q. I stated that in the first place.

A. The Gilbert & Bennett Manufacturing Company and the American Steel & Wire Company, principally. Also Dillon & Griswold; it is now the Griswold Manufacturing Company. That is about all.

Q. Is that poultry netting bought on a competitive basis?

A. Yes.

Q. Do you get varying or uniform quotations on that?

A. That varies.

Q. You spoke of poultry netting staples. From whom do you buy them?

A. We buy a few of the American Steel & Wire Company, but principally of the Grand Crossing Tack Company, or the Cleveland Company, or William E. Pratt & Company. That is another article that the American Steel & Wire Company's price is not as good on as we can get of others, so we do not buy a great many of them.

Q. You spoke of clothes lines; from whom have you bought your clothes lines?

A. Of the American and Roebling's and the Wright Wire Works.

Q. Have you made those purchases on a competitive basis?

A. Yes, sir.

Q. Have your quotations on that product been uniform or varying?

A. They have varied, and we have not bought every year of the American. There is no particular difference in quality on that product, and we buy where we get the lowest price.

Q. Do you sell anything that is made by the Illinois Steel Company?

A. We sell steel rods or bars. The last few years we have been selling them for silos.

Q. Where do you get your supply of silo rods and bars?

A. Well, we have not bought them all of one mill, the prices have varied so. Those we buy the same as the other goods, and buy of the lowest man, and we ask for quotations on those the same as we do on other goods, when we are ready to place a contract.

Q. You say there is a good deal of variation in the quotations?

A. Yes, sir; there is.

Q. Do you remember the names of other mills, aside from the Illinois, that quote you on those?

A. There is the Illinois Steel Company, Theodore Geissmann Company, Jones & Laughlin, Mathew Lanz Sons Company.

Q. Where are they located?

A. Pittsburgh. The Pittsburgh Forge & Iron Company; Republic Iron & Steel Company; Interstate Iron & Steel Company.

Q. Have you bought from some of those people?

A. Yes.

Q. Do you remember whom?

A. We have bought of Lanz. I do not recollect who the others are. We take the lowest prices, and on that article we sent out more inquiries. We found there was a difference in their prices, and sent more inquiries than we generally do on the other items.

Q. This is a rather newer product with you too, is it not?

A. Yes, sir; we have only handled it a few years.

Q. The consumption of this particular style of rod is increasing a good deal, is it not, out there in the west?

A. Yes, sir.

Q. More silos are being built?

A. Yes, sir.

MR. SEVERANCE: You may examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. Mr. Cutler, you say that your annual turnover is about $700,000?

A. Yes, sir.

Q. At the present time?

A. It will run a little over that this year, but we sell enameled ware and tools, cutlery and sporting goods; goods that do not run into money as fast as the heavier products.

Q. You sell a great variety of products, do you not, in a general hardware business, in a place like Waterloo?

A. Yes, sir. We do not retail. We do not keep as large a variety as we did when we ran the retail store.

Q. Still, you supply the retail stores largely, do you not?

A. Yes, sir.

Q. You do not sell direct to the consumer, do you?

A. No, sir.

Q. Then you keep a general class of goods that the retailers in that section of the country want, do you?

A. Yes, sir.

Q. And that is quite a variety, is it not?

A. Well, there are a great many articles that we do not keep that the ordinary retailer does keep.

Q. But then there are a great many that you do keep?

A. Yes, sir.

Q. Do you know, taking the year 1912, what proportion of your turnover that year was in the class of products that you have been testifying about to-day?

A. No, sir; I do not.

Q. Could you give any approximation of that?

A. It would be a guess if I should, and I might make a wild guess. We do not keep a record to know what quantity we sell in the different lines.

Q. There is a very large part of your business that is in things other than the things you have been talking about to-day, is there not?

A. Not a large part in dollars and cents or in tonnage.

Q. You mean in tonnage?

A. No, not in tonnage.

MR. SEVERANCE: He says not a large part in dollars and cents or in tonnage.

MR. DICKINSON: Read the answer.

(The answer was read by the stenographer.)

By MR. DICKINSON:

Q. You mean to say that out of all the things that you sell, other than the particular commodities that you have been testifying about, that the money value of this turnover is not large?

A. Just pardon me. What was that question that I answered last?

(The question was read by the stenographer.)

THE WITNESS: Yes, sir.

By Mr. Dickinson:

Q. Do you handle cutlery?

A. Yes, sir.

Q. Cutlery is very expensive, is it not, as compared with poultry netting?

A. Yes, sir; but we do not handle a large quantity of that.

Q. What stock do you carry in cutlery, about?

A. Oh, I cannot tell you. That we do not keep separate.

Q. Do you handle hardware for house building?

A. Yes, sir.

Q. Locks, hinges, butts?

A. Yes, sir.

Q. Everything of that character?

A. Not everything, but we handle a good line for the territory we work.

Q. For building such houses as are built?

A. Yes, sir.

Q. In that territory?

A. Yes, sir.

Q. Is not the money value of that, as compared with these plainer articles, very high, as compared with the tonnage?

A. No, it is not as high, naturally, as those heavy goods.

Q. You mean that a ton of locks, compared with a ton of poultry netting, that the price of the ton of locks would not be higher than the price of the ton of poultry netting?

A. I did not say that.

Q. That is what I am asking you.

A. A ton of locks would cost us more than a ton of nails.

Q. Then when you sold a ton of locks you would get more for them than you would for a ton of nails?

A. I hope so; yes, sir.

Q. And so with poultry netting?

A. Yes, sir.

Q. And with any of these other things that you have described, would it not?

A. Not all of them, but the most of them.

Q. Now, what of these things that you have been talking

about could you sell a ton of at the same price as you sell a ton of locks?

A. I thought you meant the other items outside of those heavy goods when you asked the question.

Q. Oh, no; I am comparing it with these heavy goods.

A. There is not anything in these heavy goods, unless it would be planished iron. That would come nearer; or the Wood's Refined would come nearer the price of a ton of locks.

Q. Your locks vary in quality, do they not?

A. Yes, sir.

Q. You carry some fine locks, do you not?

A. Yes, sir.

Q. Can you give the proportion or any approximation of the proportion of this $700,000 turnover that is represented by the class of products that you have been testifying about here as to buying, and upon which you get quotations?

A. No, sir; it would be a guess, and I never have figured that to know what the proportion is.

Q. And you could not do it for any one of those ten or twelve years that you have been talking about?

A. No; we have grown into the wholesale business from retail, and we have not added a lot of office expenses, or very much system, and we have not separated our stock into different departments, as we intend to do next year.

Q. Twelve years ago were you in the wholesale business?

A. Yes.

Q. What was your turn over twelve years ago?

A. I haven't the exact figures; I do not know that I could make a safe guess on that.

Q. Could you make a safe guess for any year prior, say, to 1910?

A. I should say 12 years ago it was $250,000, but that is a guess.

Q. That is a guess?

A. Yes; and it has been increasing every year since.

Q. At a pretty constant ratio or not, or has it been fluctuating?

A. It has not made the same increase every year.

Q. Well, twelve years ago, when your turn over was approximately $250,000, what proportion of that was represented by the class of steel and wire products that you have been testifying to to-day?

A. There was not quite as large a proportion in those heavy goods as there has been the last two years.

Q. Twelve years ago, can you give any idea of the extent of your purchases in sheet steel?

A. No, sir.

Q. Well, in poultry netting?

A. We sold probably half as much as we are selling now in poultry netting.

Q. Take the year 1912; what tonnage did you sell of poultry netting?

A. I cannot tell.

Q. So that you cannot tell, then, approximately what you were selling twelve years ago?

A. No, sir.

Q. Can you approximate what you were selling twelve years ago of any of these articles about which you have been testifying?

A. No, sir.

Q. Well, twelve years ago do you know now from whom you bought poultry netting? Can you recall and distinctly remember?

A. We bought of the Gilbert & Bennett Manufacturing Company; I do not recall who else we bought of.

Q. Well, 11 years ago from whom did you buy poultry netting?

A. We bought from Gilbert & Bennett every year.

Q. Can you remember any other person that you bought of?

A. Eleven years ago?

Q. Yes.

A. No, sir; we began buying of the American Steel & Wire Company about ten years ago.

Q. Do you know what year you began buying from them?

A. No, sir; I do not know.

Q. Do you know that it was as long as ten years ago?

A. I am not certain.

Q. Do you know that it was as long as nine years ago?

A. I am not certain when we began.

Q. You cannot say whether it was eight or nine or ten years ago?

A. It was eight to ten years ago, I should say.

Q. Take the year 1913; what various commodities have you bought and what tonnage of each, from the subsidiaries of the United States Steel Corporation?

A. I could not tell you; I have not the figures for that.

Q. Have you bought anything from the subsidiaries of the United States Steel Corporation in 1913?

A. We bought sheet iron, tin plate, wire nails, staples, barbed wire, and these several grades of black iron that I referred to before, "Wood's Refined" "Patent Planished" and "Apollo" galvanized sheets.

Q. Do you remember the tonnages that you bought, approximately?

A. No, sir; I do not.

Q. Have you got written contracts for 1913?

A. We have written contracts all the time on those goods.

Q. Have you any for 1913?

A. Yes.

Q. With what subsidiaries of the United States Steel Corporation?

A. The American Sheet & Tin Plate Company, American Steel & Wire Company. I do not know what other companies, whether any of those I have given here are subsidiaries of the United States Steel Corporation or not.

Q. What written contracts have you with companies for 1913, other than the American Sheet & Tin Plate Company and the American Steel & Wire Company?

A. Just on those commodities?

Q. For any of the commodities you have been testifying about. I want to know what concerns you have written contracts with for 1913?

A. The American Sheet & Tin Plate Company.

Q. You mentioned that?

A. I mentioned that and the American Steel & Wire Company?

Q. Yes.

A. The Grand Crossing Tack Company, the Wright Wire Goods Company, the Cleveland Tack Company; and we have a contract on galvanized sheets, but I cannot recall the company; it is the name I think you mentioned, the Stark. I think we have a contract now with the Stark Rolling Mill Company.

Q. Do you know that you have?

A. We have one, unless it is all taken out. We had a shipment from them a couple of weeks ago, and I do not know whether that closed up the contract or not.

Q. You did have one for 1913?

A. Yes; and it may be running yet.

Q. Is that all you can name?

A. We have a contract with William E. Pratt & Company, Gilbert & Bennett Manufacturing Company, American Wire Fabrics Company, and the Wright Wire Works.

Q. You mentioned the Wright Wire Goods Company.

A. Did I? We have contracts with a large number of concerns, but it is on smaller goods, lighter goods. And we have a contract with N. & G. Taylor & Company on tin plate.

Q. What proportion of your tin plate for 1913 that you contracted for up to this time is covered by your contract with Taylor?

A. I should say about half.

Q. How many boxes?

A. I don't know. I do not make the contracts now. I have three men that have been with me from eighteen to twenty-six years, and they simply talk to me in a general way about these things, and whom we had better buy from, and there are a great many details that I do not now know that I used to keep track of.

Q. How long has that been the case?

A. Oh, they have been growing into it a good many years.

Q. When did they begin to grow into it?

A. Twenty-six years ago, when they began working.

Q. How long has your contact with this matter been in a

general way, such as you have indicated in your statement?

A. Oh, it has not been very long. I am dropping out of it more every year—turning it over to them.

Q. When did you begin dropping out of it?

A. I began ten years ago.

Q. You began dropping out of it ten years ago?

A. You might say—I was not dropping out of it then, but I was having them take certain parts of the work, that I had attended to before that time; but I was familiar at that time with all the contracts and made the contracts, and have been making them up to this time, more or less; but, as I say, I am gradually turning it over to the other men.

Q. These men have been with you a long time, you say?

A. Yes, sir.

Q. Are they men of experience in purchasing?

A. They have had, as I say, eighteen to twenty-six years' experience in hardware.

Q. How many of them are there?

A. Three of these men, buyers, that I speak of.

Q. They are men in whom you have confidence?

A. Certainly.

Q. Do they sometimes buy on their own judgment?

A. Some of the smaller articles—tinware and tools, cutlery; but where there is any amount, they confer with me about it.

Q. What do you call "any amount"?

A. Well, if it was a carload of milk cans, they would probably speak to me about it.

Q. Do you buy milk cans from any of these people you have been talking about to-day?

A. No, sir; I did not mention any of those. We have contracts for outside goods, outside of those staple goods I have mentioned; we have a great many contracts. I have not mentioned one-tenth of them, I presume.

Q. But the subsidiaries of the United States Steel Corporation do not make milk cans, do they?

A. I think not.

Q. Let us leave out milk cans, then, and come back to what we have been talking about: have these purchasing

agents at any time made purchases of the various kinds of commodities that you have been testifying about to-day?

MR. SEVERANCE: I think you inadvertently made that question too general, Judge. You have asked him about all kinds of things, and he has been testifying about all kinds of things.

MR. DICKINSON: I want to make it plain, and I will reform the question.

By MR. DICKINSON:

Q. Have these purchasing agents at any time made purchases of sheet steel or nails or planished iron, or wire fencing or staples or plate or tin plate?

A. I think not. You say "staples"; the fence staples are included with wire and nail contracts, usually, but poultry netting staples they have bought. That does not run into quantity.

Q. Mr. Cutler, have you not frequently, in the last ten years, made from time to time purchases of these various articles where the amount would be inconsiderable?

A. Yes, sir.

Q. And do you mean to say that none of these agents, whom you say you have had in your business for twenty-six years, have made purchases of any of these articles without the matter being submitted to you?

A. "Inconsiderable" would be a little indefinite. It might apply in our business, and would not apply to Hibbard & Spencer, or to the George Worthington Company, or some of the larger houses.

Q. I am asking you whether or not at any time in the last twelve years any of these purchasing agents have ever bought without, before completing the purchase, bringing it to your attention, any articles I have just specified.

A. Very few, in those heavy goods. While I was South last winter they might have bought a little, but we made nearly all of our contracts before I went away, in heavy goods—wire, nails, tin plate, sheet iron, galvanized iron, black iron; all of these heavy goods were contracted for ahead.

Q. Do you buy all of these things always by contract?

A. Yes, sir. I say——

Q. And never buy them by orders?

MR. SEVERANCE: One moment, Judge. The witness had not finished.

THE WITNESS: I was going to say practically always. There may be a time when we want a few sheets of a different size, something that we do not keep in stock, and we may not have a contract with the mill that we think will furnish them quicker than the mill we are contracting with; and they might order those without a contract, or order them without saying anything to me about it.

By MR. DICKINSON:

Q. Do you know what proportion of your purchases in twelve years, in these various items I have specified, have been covered by contracts, and what proportion have not?

A. Nearly all of it has been covered by contract, as to these heavy goods.

Q. That is to say, that for each of the twelve years you have anticipated your wants, and have covered your prospective needs for that year by contracts?

A. Yes, sir.

Q. In all these articles?

A. Practically all of them.

Q. What contracts did you have eleven years ago—that would be 1902—for tin plate?

A. That would be guesswork if I should state that. I cannot tell positively who we contracted with eleven years ago.

Q. Can you tell ten years ago?

A. No, sir; I cannot tell positively as to any of those years.

Q. Do you know what quotations were made to you by any competitors in tin plate ten years ago or eleven years ago or twelve years ago?

A. We have a record of it in our office.

Q. But I want to know what the record of it is in your mind.

A. I have not any record of it in my mind.

Q. You have no record of it in your mind?

A. No, sir; not as to any price. I have a comparative impression as to the facts in my mind—the comparative prices.

Q. I want to see just what facts you have got in your mind. Can you state, for any one of those years, who the bidders are that you carry in your mind, and what the bids were, and let us see now, what the comparison was on any of these commodities?

MR. SEVERANCE: If you remember.

MR. DICKINSON: Now, read the question.

(The question was read by the stenographer.)

By MR. DICKINSON:

Q. On any of these commodities?

A. I do not know that I am prepared to give any positive figures.

Q. Have you any figures in your mind that you can say that you remember?

A. I remember nails.

Q. Take ten years ago——

A. (Interposing) Ten years ago?

Q. In 1902 do you know what you paid for nails?

A. No, sir.

Q. Do you know what you paid for nails in 1903?

A. No; I could not state positively.

Q. Do you know whether the prices of nails were higher or lower in 1903 than they were in 1902?

A. 1902 and 1903?

Q. Yes.

A. No, sir; I cannot state positively. I have not any of those prices in my head that I would be willing to swear to.

Q. Do you not know, Mr. Cutler, that for long periods of time, certainly down as far as 1906 or 1907, the prices of nails from manufacturers were generally quoted at a constant figure?

A. No, sir; I do not know that.

Q. You do not know——

A. (Interposing) You mean a uniform figure, or——

Q. (Interposing) Oh, I do not mean throughout that time, and I do not mean that every one quoted the same price.

MR. SEVERANCE: Then I do not see that your question means anything.

MR. DICKINSON: I will make it so he will see it, anyway.

By MR. DICKINSON:

Q. I will ask you this way: Do you not know that in 1902 over periods of time as much as weeks at a time, or months at a time, that the general price quoted by manufacturers on nails was the same?

A. No, sir; I do not.

Q. Do you know that for any of those years?

A. My opinion is that they never have been the same any length of time.

Q. You are going now, are you, on the prices quoted to you?

A. Yes, sir; what were quoted to us by the manufacturers.

Q. And you cannot give any of the prices for any of those years?

A. Why, prices have run from $1.45 to $3.20, but as to my stating the week or the month that $3.20 was quoted, or that $1.70 was quoted, I cannot state it positively.

Q. Can you give any time in the last twelve years where you made a purchase of nails, and state from whom you got quotations, and what they were?

A. Why, the recent prices I can state; $1.50.

Q. $1.50?

A. Yes.

Q. From whom?

A. The American Steel & Wire Company; Grand Crossing Tack Company.

Q. Who else?

A. I do not know that we have any contracts with others now. We have not been buying recently very heavy.

Q. What time is that you are speaking of?

A. We have contracts at present.

Q. And both of them are at the same price?

A. Yes; both at the same price. There is a little difference, however, between them.

Q. Well, state it.

A. The price does not always say that they are the same. They sometimes make differences, as I stated before, in the time when we must specify for our contract, and require that shipments must be made in a certain time after the specifications are sent in. Now, with these two houses it differs to-day, the contracts that we have, and that has almost always been the case.

Q. But the prices have been the same?

A. The prices to-day are the same, but we consider that just the same as a price. Money is worth something, and if we can contract to-day with one house at $1.50 and must specify in sixty days, and can contract with another at the same price and specify in four months, and then delay shipments after that longer than the first company, that is the same as price to us.

Q. You said the price to-day is $1.50. What do you mean by the price to-day?

A. $1.50 a hundred f. o. b. Pittsburgh.

Q. Last year with whom did you contract for nails?

A. The American Steel & Wire.

Q. Who else?

A. Grand Crossing.

Q. Who else?

A. Youngstown; Cambria.

Q. Were these contracts at the same time or different times?

A. Some of them the same day.

Q. Which ones were the same date?

A. I cannot tell you.

Q. What proportion of your nails did you get last year from the American Steel & Wire?

A. You mean 1912?

Q. Yes.

A. I do not think we got over 50 per cent. from the American Steel & Wire.

Q. This year how much did you get from them?

A. We got probably 75 per cent.

Q. Well, in 1911, what percentage did you get from them?

A. This is guessing; we have it at home, but I should think in 1911 we got perhaps, I do not think it ran over 50 per cent. then.

Q. Would it run 50 per cent. all the way back for twelve years?

A. No, sir.

Q. For what year can you say it did not run 50 per cent.?

A. I cannot say positively what year. In looking over the purchases or contracts, we have bought from 45 to 80 per cent. of the American Steel & Wire Company at different times for a number of years.

Q. You mean taking all of your purchases?

A. All of that commodity.

Q. You mean nails?

A. Nails, wire and staples.

Q. And how about tin plate?

A. Tin plate, we have bought principally of the two houses, N. & G. Taylor & Company, and McClure & Company, until the last two years. We have been buying a part of it of the American Sheet and Tin Plate Company.

Q. What proportion of tin plate did you get this year of them of all your requirements up to this time?

A. We have got about one-half of it, I think, from the American Sheet & Tin Plate Company. That is, tin plate you are referring to now?

Q. Yes. In 1912, how much did you get—what porportion?

A. I think about the same.

Q. You gave some figures on nails as to a variation in price from about $1.50, Mr. Colton thinks, to $3.50. He may not have that last figure right.

A. $3.20, I think I said.

Q. Yes. Were those variations between different periods that you contrasted there?

A. That was at one period $3.20, and $1.50 at another period.

Q. Yes. You were not speaking of that variation between quotations at the same time?

A. No, sir; we never have had that difference quoted us. The $3.20 was——

Q. Well, I think you have explained it already. I do not want to stop you, however.

Now, take the year 1910, when you had these purchasing agents; what did they do in the way of negotiating purchases? What were their functions and duties?

A. They kept track of stock and keep a record of our purchases, of whom we bought, and the price, and suggest to me when they think we ought to contract, and have the prices tabulated so that I can look at them easily and advise what I think they had better do, delay the contracting or have the contract light or heavy.

Q. Have what prices tabulated?

A. Prices that we have quoted us from the manufacturers.

Q. Who sends out for those quotations, they or you?

A. They do.

Q. And they get them in?

A. They get them in a part of the time, and I do a part of the time. They come in the general mail.

Q. And whose business is it to assort them?

A. One of the office girls assorts them.

Q. Do they come to you primarily?

A. They come to my desk.

Q. What do they have to do, then, in getting the quotations?

A. Just as I stated a few minutes ago; keep the stock and keep a record, and ask for quotations when they think it is time to buy; and possibly we have had prices quoted to us by mail, or possibly by some factory in person. We might think it is a good time to feel of the market, and we ask them to send out inquiries.

Q. Then you have an opportunity of seeing the quotations?

A. Yes.

Q. And you can not give the quotations on a single purchase from 1902 down to 1912, can you, and who quoted upon any one purchase?

A. I did not say that I could not do that.

Q. Well, can you do it?

A. Yes.

Q. Just give for 1912 some purchases that you made; state what they were, and what were the competitors, and what prices they quoted.

A. I do not know that I can give you all of that. We have had $1.80 by the American Steel & Wire Company.

Q. You are speaking of 1912?

A. 1912.

Q. On what?

A. Nails.

Q. What time in 1912 was that?

A. I can not give you the month. It is the latter part of the year.

Q. The latter part of 1912?

A. Yes.

Q. You made a purchase then, did you?

A. We did not purchase very much. We have not been buying—no, sir; I do not think we bought any at that price at all.

Q. I asked you, upon some purchase that you made, to give who the competitors were, and what prices were quoted you.

A. $1.65.

Q. When was that, in 1912?

A. Early in 1912.

Q. Upon what?

A. Nails.

Q. Who made that price?

A. The American Steel & Wire Company.

Q. What other bidders were there on that?

A. The Cambria, Youngstown Sheet & Tube and the Grand Crossing.

Q. What month was that?

A. I can not tell you; the early part of 1912.

Q. Did you send out solicitations for bids on the price of nails?

A. Part of them.

Q. Which of those did you?

A. We sent to the Cambria and the Grand Crossing Tack Company.

Q. And the American Steel & Wire Company?

A. Their representative called on us.

Q. Now, give the bids made by each one on that purchase that you stated you made, and state from whom you made the purchase.

MR. SEVERANCE: He said that he made it from the American Steel & Wire Company; he has already said that.

THE WITNESS: We bought a few from the American Steel & Wire Company.

By MR. DICKINSON:

Q. What quantity?

A. I can not tell you the quantity.

Q. How long a delivery was it?

A. Their usual contracts are sixty days; sixty days to specify, and then they must be shipped,——

Q. Do you know——

MR. SEVERANCE: Let him finish.

By MR. DICKINSON:

Q. Had you finished?

A. No, not quite. Then they want to ship in thirty days, and they give us sixty days after specifications are in.

Q. What bids were there made by these other persons?

A. The Grand Crossing Tack Company, $1.65.

Q. What did the Cambria bid?

A. $1.65.

Q. Who else bid? Were those three all?

A. I can not tell you what the Pittsburgh was; I will not tell, because I only think.

Q. Can you mention any other instances where you made a purchase?

A. I think it was two years last fall; that would be 1910.

Q. What instance is that that you carry in your mind?

A. When I returned from the east I contracted for nails while in Chicago; at least for a part.

Q. With whom did you contract?

A. The Cambria.

Q. You contracted with the Cambria?

A. Yes.

Q. What quantity?

A. I don't recall the exact quantity.

Q. What part of the year?

A. In November. I recall that, because it was when I returned from the Atlantic City convention, in the fore part of November.

Q. From whom did you solicit a bid on that?

A. I called on three or four of them.

Q. Which three or four?

A. Cambria, the Pittsburgh Steel and the American Steel & Wire Company, and I phoned the Grand Crossing Tack Company.

Q. At what price did you contract?

A. $1.45, Cambria.

Q. What was the bid of the Pittsburgh Company?

A. $1.50.

Q. What was the bid of the American Steel & Wire?

A. $1.50.

Q. What was the bid of the Grand Crossing?

A. Their price, I believe, was the same as the American, but they would extend the time of filling the contract, as they usually do.

Q. You got four bids, then, did you?

A. Yes.

Q. And three were the same?

MR. SEVERANCE: He didn't say so.

THE WITNESS: Two of them were the same.

By MR. DICKINSON:

Q. I thought you said the Pittsburgh was $1.50.

A. I do not consider when we get sixty days time from one house at the same price, and another at thirty days, that the figures were the same.

Q. The figures were the same?

A. A part of the figures.

Q. When you solicit bids, do you solicit different deliveries?

A. Yes, we usually do; we do not always; we usually do.

Q. Then they were not bidding on the same thing, were they?

A. Some houses have an established price that they do not vary from a great deal, or established terms, rather.

Q. I want you to state if you can a single instance back of 1912 where you purchased any of the commodities that you have named, where in the negotiations or transactions leading up to the purchase you solicited bids from bidders upon exactly the same terms; I mean with delivery the same, and if you can recall an instance of that sort, state whom you solicited and the prices that were bid, and the time.

A. I can not give you any positive dates on that, any more than I have, but the American Steel & Wire Company never are the lowest except when the demand is a little greater than they can supply.

Q. Did you understand me, Mr. Cutler, to ask you any such question as that, as to whether the American Steel & Wire Company was ever the lowest? Did you understand my question to call for that?

A. You wanted to know about prices; what prices we contract at.

Q. I want to know from you if you can state any transaction that you carry in your mind of a purchase of any of these commodities that you have been speaking about, back of 1912, where you solicited quotations upon exactly the same terms and quantity and delivery, and where you can state whom you solicited, and who quoted and what prices they quoted.

A. Back of 1912 we asked quotations of the American, the Pittsburgh, the Cambria and the Grand Crossing. They were all lower than the American, and we bought of all of them.

Q. Is that the only answer you can make to that question?

A. Yes.

Q. Now, do you say that throughout this period from 1902

down to 1912 the Pittsburgh and the Grand Crossing Company and this other concern that you named, the Cambria, were always lower than the American on all the things upon which you asked quotations?

A. I do not think I stated that they were always lower; they are generally lower, nearly always. The general conditions are not always the same, and when the independents want orders badly they cut the price, and the American Steel & Wire Company's price seems to be the price that they call the price; they issue their price, and their price is supposed to be the same to all the jobbers, and that is called the price, and sometimes they will quote us and they will say "We will shade the price so much, two and a half or five cents."

Q. So the other competitors of the American Steel & Wire Company speak of that as the price?

A. Yes, because they are about the only ones that make the price generally; they sell all over the country, and they are known to a larger extent, I think, in that line than any one else.

Q. So that is the price that those quotations were made in reference to, whether they cut the price or shade the price or go over that price, that is the price, is it?

A. It is the price we compare with usually. I do not say that others do that.

Q. I mean, people you have been dealing with, and from whom you have been getting business.

MR. SEVERANCE: One moment. I would like to have that question and answer read, as I was interrupted for a moment.

(The question and answer were read by the stenographer.)

MR. SEVERANCE: I do not understand that question.

MR. DICKINSON: I will strike the question out, then, and ask another one.

MR. SEVERANCE: But there was another question also, which was not answered.

MR. DICKINSON: Strike them both out.

By MR. DICKINSON:

Q. Did you state that you could or not tell what companies you got the bids from on nails in 1902?

A. I would not care to tell. I cannot recollect.

Q. You said it was the same people from 1903 to 1904 and 1905?

A. I know some of them that we bought from at that time.

Q. You know whom you bought of? I am asking now if you could name those you got quotations from?

A. I know some of them. I could not tell them all.

Q. Take the year 1902, on nails. Do you know now from whom you got quotations?

A. I know we got quotations from the Grand Crossing Company.

MR. SEVERANCE: One moment, Judge; I should like to have the stenographer read again the question and answer which you said you would strike out a few moments ago.

(The stenographer read as follows:)

"Q. So that is the price that those quotations were made in reference to, whether they cut the price or shade the price, or go over that price—that is the price, is it?

"A. It is the price we compare with usually. I do not say that others do that.

"Q. I mean, people you have been dealing with, and from whom you have been getting business?"

MR. SEVERANCE: I do not understand what that question means.

By MR. DICKINSON:

Q. Do you understand it, Mr. Cutler?

A. No, sir; I do not, exactly.

MR. SEVERANCE: I do not know what that means. Will you kindly put that again and make it plainer, Judge.

By MR. DICKINSON:

Q. You say you do not understand what that means, Mr. Cutler?

A. Not exactly. I would like to hear it again.

(The stenographer again repeated the question referred to, as follows:)

"Q. I mean, people you have been dealing with, and from whom you have been getting business."

THE WITNESS: I think I answered that before.

By Mr. Dickinson:

Q. Then answer it now, if you think you understand it.

A. I said we compared that price,—the price of the American Steel & Wire Company. I do not know whether others do or not, always, but occasionally they do quote as shading the price of the American Steel & Wire Company. I do not mean by that that it is usually done. It is occasionally done in that way. They usually name a price just as the American Steel & Wire Company do, in dollars and cents.

Q. You said that that was spoken of as the price, did you not?

A. I said it was so far as we are concerned, and occasionally a manufacturer does so. It is not general.

Q. What manufacturers, now, spoke to you of it as the price?

A. I cannot tell now what manufacturer it was.

Q. Can you tell on what occasions it was?

A. It was when we wanted to buy; when they were making us quotations.

Q. On such occasions as that they would do it?

A. Occasionally.

Q. Occasionally?

A. Yes.

Q. You do not know how often?

A. No, sir.

Q. And that occurred through what period? Throughout the times you have been talking about?

A. Yes; during the twelve years; not all the time. I mean it occurred during the twelve years, but not very often. I said occasionally.

Q. Do you know, and have you any recollection whether it was often or whether it was not often, what years it occurred in?

A. Not very often, no, sir.

Q. And you do not know who did it?

A. One of those four we bought of.

Q. Just one?

A. I could not tell you about that positively.

Q. You cannot tell what year it was, either?

A. No, sir.

Q. Or which one it was?

A. No, sir.

Q. Was it just one or more than one?

A. I presume it was only once, when we were making a contract. It has not been general, by any means, and it has not always been when we were making a contract.

Q. You mean to say that at some time, when you have made some particular contract some one of these men spoke in that way?

A. That is about what I mean.

Q. What contract was that, and who was it?

A. I cannot tell you.

Q. Do you state that there was only one time that that occurred?

A. No, sir; I did not say that.

Q. What did you mean to say about that?

A. I said it is occasionally done; not very often.

Q. You cannot tell how often?

A. No, sir.

Q. Or who did it?

A. No, sir.

Q. You regarded that as the price in reference to which other prices were made, did you?

MR. SEVERANCE: I object to that as incompetent and immaterial.

By MR. DICKINSON:

Q. Did you not?

A. Yes, sir; I did at the time.

Q. Well, all that time?

A. At the particular time it was made I referred to it.

Q. At the time you were making contracts?

A. No, sir.

Q. What time did you regard it in that way? And when was it you did not?

MR. SEVERANCE: I object to that question as utterly meaningless and ambiguous.

By Mr. Dickinson:

Q. Do you understand the question, Mr. Cutler?

A. I think I do.

Q. Then maybe it has some meaning to you, if it has not to counsel. Now, will you answer it?

A. Once it was made by phone from Chicago to our office.

Q. What was made by phone?

A. They would make the price a little lower than the regular price.

Q. What was the regular price?

A. The regular price was supposed to be what the American and mills generally were quoting.

Q. You regarded that as the regular price at that time?

A. Yes, sir.

Q. You understood that, and that this variation was from the regular price that mills were generally quoting?

A. Yes, sir.

Q. From time to time there are such prices that you understand to be the general price that the mills quote, are there not?

A. Why, that occurs with anyone who is selling any kind of goods, occasionally.

Q. Yes; and that was your observation of the business?

A. To a certain extent it was.

Q. I asked you down to and including 1905 as to the different companies from which you got bids on wire nails. Can you state the different companies from which you got bids on wire nails in 1906?

A. I think every year we have had quotations, including 1906, from about these same concerns.

Q. Which?

A. The American, Grand Crossing, Pittsburgh Steel, and the Northwestern Wire Company; about that time, I cannot state positively whether it was 1906, or not.

Q. And that is only a general impression that you got it from all of them in 1906, is it not?

A. How?

Q. It is only a general impression from which you state that you got bids from all of them in 1906?

A. We never have handled nails any year since we have been in the wholesale business that we have made contracts without getting prices from more than one factory.

Q. From more than one?

A. Yes; usually three or four, and sometimes more than that.

Q. But sometimes less than three or four?

A. No, sir.

Q. You said "Usually from three or four"?

A. I might say always, then.

Q. Always?

A. Yes, sir.

Q. And you cannot give the three or four positively for the year 1906?

A. These same ones, because we have dealt with these same mills.

Q. Can you give the quotations on any transaction in 1906?

A. No, sir.

Q. Or 1907?

A. No, sir.

Q. Or 1908?

A. No, sir.

Q. Do you know what relation their bids bore to each other for any of those years?

A. I know—to answer that, you probably would want the house specified, and the time.

Q. Well, all I want to know, Mr. Cutler, is what you know.

A. I know nearly every time we have had contracts there has been a variation in price.

Q. Have you finished?

A. Yes, sir.

Q. What do you mean by a "variation in price"?

A. They would not all quote the same.

Q. And there are other times that they did?

A. Very seldom that they have all been the same.

Q. But they did, did they not?

A. I cannot say that there has been any time when they were all the same.

Q. Can you say that there have not been times when they were all the same?

MR. SEVERANCE: Do you mean that question the way you put it? I do not think you meant it the way you put it.

By MR. DICKINSON:

Q. Can you say that there have not been times when all of them were the same?

A. Have not been times?

Q. Yes.

A. When they were all the same?

Q. Yes.

A. I cannot say.

Q. When you speak of variation in price, can you say that there have not been times from 1902 down to 1910 when all the bidders on wire nails were alike?

A. No, I cannot say that.

Q. Have there not been times during that period when two or more were alike?

A. Yes, sir.

MR. DICKINSON: That is all

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. The American Steel & Wire Company are in the habit of publishing their prices, are they not?

A. Yes, sir.

By MR. DICKINSON:

Q. Where and how do they publish them?

A. They are published in the trade papers usually.

MR. DICKINSON: That is all.

By MR. SEVERANCE:

Q. These trade papers state what the Steel and Wire are quoting?

MR. DICKINSON: No. You said they published them.

THE WITNESS: They do not always state that it is the

American Steel & Wire, and I do not know that they ever do, but they frequently say "the leading interests."

By Mr. Severance:

Q. And you understand that to mean the American Steel & Wire?

A. Yes, sir.

Mr. Severance: That is all.

Mr. Dickinson: That is all.

Mr. Severance: I will call Mr. Linn.

WILLIAM A. LINN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Severance:

Q. Mr. Linn, where do you live?

A. Chicago.

Q. What is your business?

A. Assistant purchasing agent of the Chicago, Milwaukee & St. Paul Railway.

Q. Who is the purchasing agent of that company?

A. Mr. John T. Crocker.

Q. How long have you been connected with the purchasing department of that road?

A. About twenty years.

Q. Is Mr. Crocker active in the service at present?

A. Not entirely.

Q. How long has he been practically retired?

A. Oh, two or three years, probably.

Q. And you have had the management of the business, practically all of it, since then?

Mr. Colton: That is all very leading, Mr. Severance.

Mr. Severance: I know it is, but it is only preliminary.

Mr. Colton: Very well.

The Witness: Very largely.

By Mr. Severance:

Q. Previous to the time that Mr. Crocker practically retired, two or three years ago, what connection did you have with the business?

A. As assistant purchasing agent, I had a pretty general knowledge of the buying conditions.

Q. How much did you have to do with making purchases or receiving quotations, previous to the time that Mr. Crocker turned it practically over to you?

A. Considerable; a great deal.

Q. For the last ten or twelve years?

A. Yes, sir.

Q. How long have you been with the Milwaukee Road altogether?

A. Over thirty years.

Q. And in your present position, how long?

A. About twenty.

Mr. Colton: That is, assistant purchasing agent for twenty years?

The Witness: Assistant purchasing agent.

By Mr. Severance:

Q. Were you or were you not as familiar with the buying and the quotations previous to two years ago, say for a period of ten years previous to that, as you have been since?

A. Practically as familiar; about the same, at least as much.

Q. Now, do you have anything to do with purchasing rails?

A. Not any.

Q. Who buys the rails for the Milwaukee?

Mr. Colton: I object to that unless the witness knows of his own knowledge.

Mr. Severance: Answer the question; who buys the rails?

The Witness: The vice-president, Mr. Bush.

By Mr. Severance:

Q. What are his initials?

A. D. L.

Q. What part of the business of the corporation does he attend to, the traffic or operation?

A. The operation.

Q. In general, what commodities do you purchase that are manufactured by subsidiaries of the United States Steel Corporation, or any of them?

A. Why, we buy plates, structurals and bars, axles, sheets, wheels, tin plate, wire nails, and cement; I think that covers it.

Q. Do you buy any fence wire?

A. We buy fence wire.

Q. Do you buy any pipes or tube?

A. Boiler tubes and wrought pipe.

Q. Having reference to the practice of your department in the last twelve years; have you bought on contracts or otherwise?

A. Both.

Q. What is the rule, or is there any rule one way or the other?

A. There is not any rule; it is a matter that is governed largely by the general business conditions. Some contracts have been made, and then again we have bought in the open market.

Q. I will ask you in general, when you are making purchases of these various classes of material you have mentioned and this applies to the whole period of time, has it or has it not been your practice to receive quotations before entering into contracts or before placing orders in the market, except in emergency cases where you have to buy quickly?

A. Yes; quotations are always obtained from the various manufacturers.

Q. How general are the requests for quotations that you make, if you do make requests?

A. They are very general. We aim to get figures from all the important manufacturers; from anybody, in fact, who will fill our specifications with the proper material, and are able to quote us prices.

Q. Now, during the period of twelve years, what has been your experience in receiving these quotations from various

manufacturers and mills, on the class of products you have mentioned? Have those quotations come to you uniform or varying in price?

A. Oh, they vary.

Q. What has been your experience during that period of time as to whether or not there has been competition between the different mills in the sale of those products to you?

MR. COLTON: Just a moment. I object, on the ground that the witness is not competent to testify as to whether there has been competition.

MR. SEVERANCE: I think he is. Go ahead, we will take the answer.

THE WITNESS: I would judge there was competition, due to the fact that we obtain varying figures.

By MR. SEVERANCE:

Q. Do the different mills have any agents who call on you and solicit business?

A. Yes.

Q. Are they numerous or scarce?

A. Very many.

Q. How frequently do you receive calls from these gentlemen?

A. Oh, daily, weekly and monthly.

Q. Has it been a continuous performance?

A. Right along; I have some callers that come in two, three or four times a week, maybe.

Q. What do they come for?

A. Orders; that is the general desire.

Q. They have been soliciting business?

A. Yes.

Q. What has been the practice of your department in placing orders after receiving quotations? Do you place them with the lowest bidder, or who gets the business?

A. The bids will be tabulated, and the lowest bidder will usually obtain the orders.

Q. What cases are there in which the lowest bidder did not obtain the order; what class of cases?

A. There are none; there are no such cases.

Q. You said you ordinarily obtained them? I thought there were some cases where you did not.

A. I did not mean it that way. I had in mind, in answering that question, that there were some cases where we placed orders, emergency cases where bids were not generally solicited.

Q. But where you got bids?

A. Where we got bids, the lowest bidder gets the business.

Q. Now, so far as determining who usually got the orders in those cases, is that your function or that of somebody else?

A. That is my business.

Q. That is your own business? You exercise it?

A. Yes.

Q. Has there been any attempt on the part of any of the directors or officers at any time to get you to depart from that rule of letting contracts to the lowest bidder?

A. No, sir; no such representations have ever been made to me.

Q. You act independently, on your own judgment, do you?

A. Entirely.

Q. Has it ever been the case that when you have received bids and some person or corporation has been the lowest bidder, that other bidders have reduced their price to meet the price named by some lower bidder?

A. That condition has occurred at times.

Q. From whom have you bought your bars?

A. Jones & Laughlin, Illinois Steel Company, the Inland Steel Company and the United Steel Company.

Q. Where are they, Canton?

A. Canton, Ohio. And Cambria, and probably some others that I don't recall.

Q. Did you ever buy any from the Lackawanna?

A. The Lackawanna Steel? Yes.

Q. Ever bought any from the Republic Iron & Steel Company?

A. I think not.

Q. Have or have not your requirements in bars been placed in the manner you stated after receiving bids, and upon a competitive basis?

A. Yes; they have always been placed the same way.

Q. Take the matter of plates: Where have you secured your requirements of plates?

A. From the Inland Steel Company, the Portsmouth Steel Company, the Lackawanna, the American Rolling Mill Company, the Cambria Steel Company, the Cleveland Steel Company; I think that comprises about the list; oh, yes, the Illinois Steel Company.

Q. Do you ever buy any plates from La Belle?

A. Yes.

Q. You did not name them. You did not name Jones & Laughlin. Did you ever buy any plates from them?

A. Yes, sir.

Q. Did you ever buy any plates from Otis?

A. We bought one order from them.

Q. Did you ever buy any from Lukens or Worth, those people at Coatesville?

A. Yes; we have bought through their agents.

Q. Who are their agents?

A. A. M. Castle & Company, Chicago.

Q. Whose agent is he?

A. He is the agent for the Lukens Steel Company.

Q. Do you remember buying any from Worth, either through an agent or otherwise?

A. No, sir.

Q. You have given what you remember now?

A. That is my recollection.

Q. Have those orders for plates been let on a competitive basis?

A. Yes, sir; at different times, to those different people.

Q. I understand; but I mean the lowest bidder has got the business?

A. Oh, yes.

Q. You have solicited bids and let it to the lowest bidder?

A. Oh, yes.

Q. Your general testimony with reference to that would apply to plates?

A. That is right.

Q. Take structural steel; where have you bought that?

A. From the Illinois Steel Company, the Inland Steel Company, the Lackawanna, Jones & Laughlin, Cambria, the Eastern Steel Company.

Q. Where is that located?

A. Pottsville, I believe. We have also bought from jobbers.

Q. Does your testimony with reference to receiving various bids and letting to the lowest bidder apply to structural?

A. Yes, sir.

(Whereupon a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

WILLIAM A. LINN,

the witness under examination at the taking of recess, resumed the stand.

DIRECT EXAMINATION (Continued)

By Mr. Severance:

Q. Mr. Linn, take the matter of axles—car axles; where have you purchased car axles over this period named?

A. Car axles have been purchased from the American Bridge Company; Willard Sons & Bell; Illinois Steel Company; Standard Forgings Company. Those are the principal manufacturers.

Q. Have you bought any of that concern in Cincinnati?

A. Pollak?

Q. Yes.

A. I was going over in my mind whether we had or not, within that period. I think not.

Q. Have they solicited your business, the Pollak people?

A. They did at one time, but whether it was within this period or not, I do not know.

Mr. Colton: The past twelve years?

Mr. Severance: Yes.

By Mr. Severance:

Q. You do not think they have?

A. No, I do not think they have, within that time.

Q. Willard Sons & Bell are located where?

A. South Chicago.

Q. Is that a good sized concern?

A. I have always so considered it.

Q. And the Standard Forgings Company; where is that?

A. That is a large concern; they are at Indiana Harbor.

Q. That is a suburban place?

A. Yes.

Q. Just near Chicago?

A. Yes.

Q. And, of course, the Illinois Steel is at Chicago?

A. Yes, sir.

Q. So you have bought axles from people near at hand, have you?

A. Yes, sir.

Q. Have those orders been placed on a competitve basis?

A. Yes, sir.

Q. Has that competition been of the character you have described as to other commodities?

A. The very same.

Q. Take up next the matter of angle bars. From whom have you bought your angle bars?

A. Angle bars have been obtained from the Illinois Steel Company.

Q. Have you bought anything else that is used for the same purpose as angle bars, from any other company?

A. Yes; we have bought patent rail joints.

Mr. Colton: What is that?

The Witness: Patent rail joints.

By Mr. Severance:

Q. Of which have you used the most, angle bars or patent rail points?

A. I should consider that the tonnage was about equally divided between the angle bars and all the patented joints bunched together. Yes, we have bought some angle bars also

from the Cambria Steel Company, I now recollect.

Q. From whom have you bought these patent rail joints?

A. From the Rail Joint Company.

Q. What company?

A. The Rail Joint Company.

Q. Where are they located?

A. They are at—their headquarters are in New York. They are middlemen, so to speak. They place their orders for joints with—well, with other steel companies.

Q. And have them made to order?

A. And have them made; yes, sir. They sell them, and the bars are made or the joints are made by the different steel companies.

Q. Do you know what steel companies make joints for them, and where their shipments come from?

A. The Rail Joint Company's shipments, I believe, have for the last two years at least, come from the Illinois Steel Company.

Q. Where did they come from before that, if you know, or do you not remember?

A. I do not recall definitely.

Q. What other rail joint companies are there that you have bought from, aside from this one?

A. The Cambria Steel Company sells the 100 per cent. joint, of which we have used quite a number, quite a heavy tonnage; and the Q. & C. Company——

Q. What does that stand for? Do you know?

A. It stood, originally, for Quincy & Crandall, who were partners in that business. That is my understanding, and in order to make a peculiar, faddish name out of it, they just simply cut out the names and used the initials Q. & C.

Q. It sounds like the Queen & Crescent Railroad. Is that a manufacturing concern?

A. No, sir; they are middlemen.

Q. Who makes their joints for them?

A. The Lackawanna Steel Company and the Pennsylvania Steel Company.

Q. Do you buy considerable of them?

A. Yes; quite a good many.

Q. Are these products, angle bars and rail joints, purchased on a competitive basis in the same way as the other things you have mentioned?

A. Yes, sir.

Q. That is, you get quotations?

A. Yes; they are bought on the best prices that we are able to obtain.

Q. Take the matter of tie plates. What kind of tie plates do you use, and where have you purchased them?

A. We have used malleable iron tie plates, bought from the Beaver Dam Malleable Iron Company; we have used wrought iron plates, made by the Sellers Manufacturing Company; and we have used steel plates, made by the Illinois Steel Company and the Inland Steel Company; and also another type of a steel plate, made or sold by Spencer-Otis Company. That was made at the Inland Works.

Q. How do you buy your tie plates? Do you buy them on a competitive basis?

A. All bought on a competitive basis.

Q. What percentage do you think of your tie plates you have bought from the Illinois Steel Company?

Mr. Colton: Steel tie plates, are you speaking of?

By Mr. Severance:

Q. They do not make malleables, do they?

A. No; they do not make anything but steel.

Q. What proportion of your total requirements of tie plates do you think you have bought from the Illinois Steel Company?

A. Over a period of twelve years?

Q. Yes.

Mr. Dickinson: You mean the proportion of steel tie plates, or of all?

Mr. Severance: I will ask him about both.

By Mr. Severance:

Q. Are these malleable tie plates and steel tie plates competitive articles in the market?

A. Oh, to some general extent, but not in close competition, because of the difference in the metals. We would not try to

buy steel tie plates on the same basis as we would malleable iron.

Q. Are they used for the same purpose?

A. Yes, they are used for the same purpose, but they are of vastly different character, and we would pay more for a malleable iron plate than we would pay for steel at any time.

Q. What proportion of your total requirements in tie plates would you say has been malleable iron instead of steel?

A. Over this period?

Q. Yes.

A. Probably 70 to 75 per cent.

Q. Now, you stated that about 70 to 75 per cent. of your tie plates are malleable iron?

A. Yes.

Q. What per cent. are wrought iron, or have been, over that period?

A. About 15 per cent., probably.

Q. Well, then, of your total requirements in tie plates over that period not over 10 per cent. have been steel; is that right, or 10 to 15 per cent., rather?

A. No; that would not figure it. Of the 25 per cent. of plates other than malleable—now, let me see; probably 10 per cent. of that 25 would be steel plates.

Q. Probably 10 per cent. of the 25 per cent.?

A. Yes.

Q. Oh, then, you use almost entirely either malleable or wrought iron, do you?

A. No. Let me see. I am wrong about it yet. It would be—because the iron plates were the smallest proportion; that is, the wrought iron plates—Sellers.

Q. That is the smallest proportion?

A. Yes. The steel would run about 20 per cent., maybe, and the iron about five.

Q. So you think that about 75 per cent. was malleable, 20 per cent. steel, 5 per cent. wrought iron?

A. You have got it.

Q. Of the 20 per cent. of steel, how did you distribute

between the Illinois Steel and the Inland and the Spencer Otis?

A. Oh, about 40 per cent. to the Inland and 40 per cent. to the Illinois Steel and maybe 20 per cent. for Spencer Otis—of the steel.

Q. Of the steel?

A. Yes.

Q. Do you buy any tin plate?

A. In rather limited quantities, yes, we do.

Q. From whom have you bought your supplies of tin plates?

A. We have purchased tin plate from Follansbee Brothers & Company; some from—oh, various jobbers.

Q. Have you bought any of your tin plate from the American Sheet & Tin Plate Company?

A. None.

Q. Have you purchased woven wire fence?

A. Yes.

Q. From whom have you bought that?

A. From the American Steel & Wire Company and the Pittsburgh Steel Company; those two.

Q. How have those orders been placed? On a competitive basis or otherwise?

A. Not entirely. Orders for those products have been issued according to our judgment as to the quality of the material offered, and we did not put them strictly on a parity as to the quality; and in that way we did not get comparative or competitive bids, strictly speaking.

Q. Did you secure quotations on woven wire fence before placing your orders?

A. Yes.

Q. And were those quotations that you got from other manufacturers uniform or varying?

A. They varied, because the fence varied; the quality of the fence, the kind of fence offered varied.

Q. That is, there were no two that looked exactly alike?

A. Nothing to compare on a competitive basis, apparently.

Q. But they were both offered and used for the same purpose?

A. Yes, sir.

Q. From whom do you buy your nails?

A. From the American Steel & Wire Company, Jones & Laughlin Steel Company, the Cambria and the Pittsburgh Steel Company.

Q. Did you ever buy any nails from Kokomo?

A. I think we have—I am not positive about nails; I think we have had the Kokomo Company on our books for wire of some kind. I do not think it was as to nails.

Q. Have you bought any nails from the Grand Crossing Tack Company?

A. Not for a good many years. I think it is outside of the period about which you have asked.

Q. Take your nail purchases: have they been placed in the same way as these others you have testified to?

A. Just the same, on the basis of the bids received from the manufacturers.

Q. And have the bids varied or have they been uniform?

A. They have usually varied.

Q. Where do you buy sheet steel?

A. We buy sheet steel from the Cleveland Steel Company, Jones & Laughlin Steel Company, Portsmouth Steel Company, the Inland Steel Company, the American Rolling Mill Company; possibly from some others that I do not recall at this time.

Q. How have those orders been placed; on a competitive basis?

A. On the basis of the best price that we could obtain.

Q. I did not ask you about barbed wire. I forgot that.

A. Barbed wire is practically on the same basis as nails, because they are in a uniform classification. They have been bought from the same makers from whom nails have been bought.

Q. And in the same manner, and you have received bids in the same way?

A. Just about.

Q. What about boiler tubes; where have you bought them?

A. Boiler tubes have been obtained from Worth Brothers.

the Parkesburg Iron Company, the Tyler Company—I do not recall the name in full—the Detroit Seamless Steel Tubes Company, the Globe Seamless Steel Tube Company, the National Tube Company. I think those are the concerns we have bought from.

Q. In what way have you placed your orders for boiler tubes? Has that been on a competitive basis or otherwise?

A. We have always bought upon prices and placed the orders accordingly.

Q. Have your purchases been considerably distributed?

A. Quite a good deal so.

Q. What about pipe?

A. Wrought iron pipe or wrought steel pipe?

Q. Yes.

A. That has been obtained from the La Belle Iron Works, Longmead Iron Company, from the National Tube Company, and some from jobbers.

Q. Have you ever bought any from Mark or Spang-Chalfant?

A. I think we have made some purchases from Spang-Chalfant, quite a number of years ago.

Q. Have you ever bought any Mark pipe from jobbers?

A. Yes.

Q. A small or large quantity?

A. Well, it is rather a limited quantity.

Q. On what basis have you made your purchases of pipe?

A. Prices have been obtained in the market from time to time and orders placed with the low man.

Q. By the way, have you used altogether steel pipe, or have you used some iron pipe?

A. We have used both; we have used steel pipe for the past four years, I should judge, and prior to that we used iron pipe.

Q. You spoke of buying wheels; car wheels and locomotive wheels, I suppose you mean?

A. Passenger and engine wheels.

Q. From whom have you made your wheel purchases?

A. From the Carnegie Steel Company and the Standard Steel Works and the Midvale Steel Company.

Q. Do you use iron wheels too?

A. Iron car wheels for freight cars, yes. Those are made in our own foundry.

Q. I was going to ask you where you got them. You make them yourself?

A. Yes.

Q. Then your wheel purchases are for passenger cars and locomotives?

A. Yes.

Q. And your requirements have been obtained from those three sources you mentioned?

A. Yes.

Q. How have you placed those orders, on competitive bids?

A. On prices; yes.

Q. Does your general testimony apply to this in that regard?

A. Exactly.

Q. Could you give me a general idea of about how much your annual requirements are in miscellaneous steel products outside of rails?

A. Well, that would be an approximation, but I would state that it would be not less than 50,000 tons.

MR. SEVERANCE: That is all, Mr. Colton.

CROSS EXAMINATION

By MR. COLTON:

Q. Do you recall the cut in price of the steel products that followed Mr. Topping's announcement that he did not care to remain longer in the co-operative movement?

A. Why, I recall that there was a cut, or such announcement made.

Q. Did the cut extend to steel products generally, so far as you observed?

A. My recollection now is that it was on bars.

Q. The original cut was on bars?

A. The original cut was on bars.

Q. Do you now recall whether that cut extended to other products, either at the time or shortly afterward?

A. No, I do not.

Q. You have no recollection as to any other products than bars to which the cut applied?

A. No.

Q. Do you now recall approximately what the cut was in bars?

A. No, I do not.

Q. Do you recall approximately the date at which that cut occurred?

A. Well, it was five or six or seven years ago, I think.

Q. Do you think it was about in the year 1909, this cut that you are now speaking of?

A. I don't recall definitely enough to be able to state that.

Q. Do you associate that reduction with the Republic Iron & Steel Company, some announcement by Mr. Topping? Is that associated in your mind in that way, this cut you speak of?

A. No, I have no association—I do not associate it with anybody.

MR. DICKINSON: Will you please repeat that answer?

(The stenographer repeated the answer.)

THE WITNESS: That is not what I mean.

By MR. COLTON:

Q. I thought maybe you recall the time as following some announcement by Mr. Topping, or otherwise; is that the way you recall it, the time of the cut?

A. No; I do not connect Mr. Topping with the proposition at all. My recollection merely is that the Republic Iron & Steel announced that reduction.

Q. Was that followed by a cut in the price of bars, generally, when the Republic made that announcement of its cut?

A. I could not say; I rather think it was, but I could not say positively.

Q. Well, now, as purchasing agent, was it your duty or one of your duties to observe the market and keep track of such cuts as that?

A. Yes.

Q. Now, is it your recollection that there was a general cut following this announcement by the Republic Iron & Steel Company, whenever it occurred? In bars, I am speaking of.

A. That is what I stated.

Q. Do you recall about the time that the Stanley Committee began its investigation? Have you any recollection of that?

A. Yes, I think so, in a general way.

Q. Didn't this announcement by the Republic Iron & Steel occur at about the same time that the Stanley Committee began its investigation?

A. I thought it was farther back than the time when the Stanley Investigation was started.

Q. You have not any very definite recollection as to just when this announcement was made by the Republic, have you?

A. As I stated, I have not.

Q. Do you recall the cut that followed a cut made by Gates of about $20 a ton in some wire products?

A. Yes; I remember there was. I have a rather hazy recollection of that.

Q. Now, was there not a general cut in the price of steel products at the time that Gates made the cut in wire products?

MR. SEVERANCE: I object to that as not cross examination, as I have interrogated the witness about nothing previous to twelve years ago, and as counsel knows, this Gates cut was made 'way back in 1899 or 1900.

(The question was repeated by the stenographer.)

THE WITNESS: I don't recall.

By MR. COLTON:

Q. Don't you recollect anything about the fact that the Gates cut was followed by a cut in other steel products?

A. No, sir.

MR. SEVERANCE: Just a moment, Mr. Colton. May it be understood that all the questions relative to the period cov-

ered by the Gates cut, or previous to twelve years ago, go in under my objection as not proper cross examination?

MR. COLTON: Yes.

By MR. COLTON:

Q. From whom did you purchase plates in the year 1901?

A. I couldn't tell you.

Q. From whom did you solicit bids in the year 1901 on plates?

A. Well, I do not know. I should say generally the companies who were doing business at that time, which, as I recall, were Jones & Laughlin, the Portsmouth Steel Company and maybe some others; I do not recall just now who they were.

Q. Take the year 1902; from what different companies did you solicit bids on plates?

A. I could not tell you.

Q. Do you recollect any companies?

A. No, I do not.

Q. In the year 1900, do you recollect any companies from whom you solicited bids on plates?

A. No; I presume they are the same people, but I could not state definitely.

Q. Take the year 1903?

A. The same answer.

Q. 1904?

A. The same.

Q. 1905?

A. The same answer.

Q. 1906?

A. The same.

Q. 1907?

A. There was a period, of course, where we commenced to get more people on the list. I do not know where that came in, though. The Cambria Steel Company and the Inland, and the other companies whom I have heretofore mentioned, were probably brought in on the bidding in those years.

Q. I have asked you up to 1906. Now, for the year 1907 do you recall whether the Cambria or the Inland—that you

did solicit bids from either the Cambria or the Inland during that year?

A. I do not recall definitely. I presume I did.

Q. You do not know just when you began to get this broader list that you spoke of, do you?

A. Oh, it might have been back of 1904.

Q. But you do not recall just when that was?

A. No; I do not recall just when it was.

Q. In 1908 from what different companies did you solicit bids?

A. All these companies, probably, that I have mentioned.

Q. Well, name those that you remember for the year 1908.

A. Jones & Laughlin, Cambria, Lackawanna, Inland Steel Company, Portsmouth, Illinois Steel Company.

Q. Do you now recollect that you solicited all of those on each of your plate contracts for the year 1908?

A. No, I do not; I presume I did.

Q. Do you now recollect that Portsmouth was solicited at all during the year 1908?

A. No; I could not state as to that.

Q. Can you state as to the Lackawanna?

A. Oh, yes; they were solicited right along.

Q. Can you state as to the Illinois Steel Company?

A. Yes.

Q. And Jones & Laughlin?

A. Yes.

Q. In 1909 from what different companies did you solicit bids?

A. From the same companies.

Q. In 1910?

A. The same.

Q. Do you now recollect that on each order you solicited from each of those companies in 1909?

A. I did not get that question.

MR. COLTON: Will you read the question?

(The question was read by the stenographer.)

MR. COLTON: Solicited bids from each company.

MR. SEVERANCE: I was going to say, you are turning it around. The other people do the soliciting.

MR. COLTON: Solicit quotations; I think the witness understands.

THE WITNESS: I may not have gotten bids on every order I placed.

By MR. COLTON:

Q. In 1911 from what different companies did you——

A. (Interposing) The Illinois Steel Company; Jones & Laughlin——

Q. (Interposing) Just a moment. I want to make it clear. You understand, now, that I am referring to quotations that you received from the different companies, in asking these quotations?

A. Certainly.

Q. Very well. Go on with your answer.

A. The Illinois Steel Company, Jones & Laughlin, Cambria, Lackawanna, Inland Steel Company, American Rolling Mill Company.

Q. That is 1911. In 1912 from what companies did you solicit?

A. The same companies.

Q. How many contracts did you make in 1911 on plates?

A. I do not think we made any.

Q. You bought——

A. (Interposing) In the open market.

Q. You bought in the open market. How many purchases did you make in 1911?

A. Oh, a great many.

Q. You do not now recollect just the particular companies that you took up each one of these different purchases with, do you?

A. Oh, I could not; no, sir.

Q. Would the same thing be true of 1910, where you——

A. (Interposing) Just the same.

Q. And would the same be true for the year 1912?

A. No. I think I had one or two contracts in 1912.

Q. With what companies did you have them?

A. I had a contract with the Illinois Steel Company, and one with Jones & Laughlin.

Q. When was the contract let to the Illinois Steel Company, as nearly as you can recollect, for the year 1912?

A. It was quite early in the year, I think.

Q. Can you give the approximate tonnage?

A. Yes; about 2,000 tons.

Q. When was the one let to Jones & Laughlin?

A. That was let a little later; about three months later, I think.

Q. And what was the tonnage of that?

A. My recollection is it was 750 tons.

Q. Do you recollect the other parties quoting on that, that first 2,000 tons that you placed with the Illinois Steel Company, and about what the quotations were?

A. The respective figures?

Q. Yes.

A. No, sir; I do not recall them.

Q. Do you know the relation of the figures to one another?

A. No; that is what I just answered. I do not recall them.

Q. Take the contract for this 750 tons: Do you recall the parties to whom you offered that tonnage and whom you asked for quotations?

A. Yes; in a general way.

Q. I mean, do you now recollect definitely what companies did quote on that 750 tons?

A. Probably all these different people.

Q. Yes; but do you recollect that definitely, or only just as a matter of assumption?

A. In a general way.

Q. Do you know what the different prices were, the relations they bore to each other on that 750 tons now, as a matter of recollection?

A. No, I do not know just what each bid was. I cannot recall those varying figures.

Q. Now, the year 1913: With what different companies have you contracts?

A. This year we have a contract with the Illinois Steel Company for about the same tonnage, 2,000 tons.

Q. When was that made?

A. That was made late last year.

Q. About what time?

A. About in December, as I recall it.

Q. For 2,000 tons, I believe you said?

A. Yes.

Q. Have you any other contracts?

A. One with the Inland Steel Company.

Q. For what tonnage?

A. 500 to 1,000 tons.

Q. When was that placed?

A. About the same time. This Inland contract was of a little later date than the other one early this year.

Q. Coming back to 1912: You bought plates in addition to those you purchased from Jones & Laughlin and the Illinois Steel Company, did you?

A. Oh, yes.

Q. But that was on numerous orders on the outside?

A. Precisely.

Q. And you cannot remember now the different companies with which you took up each one of those individual orders, can you?

A. No, sir; I cannot.

Q. Nor the prices on each of those individual orders?

A. Oh, no.

Q. Nor the relation that the quotations on each of those different orders bore to one another?

A. I could not begin to remember it.

Q. Take the period from 1901 to 1907 inclusive; do you recall the relation the various prices quoted by the different manufacturers on plates, where they did differ, bore to one another, or the number that were uniform at a given time; that is, the number that quoted the same price at a given time?

A. No, sir; I do not.

Q. Would your answer be the same for 1908?

A. Yes, sir; necessarily.

Q. For 1909?

A. Yes, sir.

Q. For 1910?

A. Yes, sir.

Q. For 1911?

A. Yes, sir.

Q. For 1912?

A. I remember the figures for 1912 and 1913.

Q. 1912 is the first year that you recall the figures?

A. Those are the first years that I am certain about.

Q. Would your answers be the same for structural material as for plates?

A. Yes.

Q. You have in mind these different questions that I have asked you in reference to plates?

A. Yes, sir.

Q. Would your answers be the same in respect to bars?

A. Just the same.

Q. Do you recollect the figures for 1912 and 1913 in respect to structural?

A. Yes, sir.

Q. With what different companies did you place your structural steel in 1912?

A. The Illinois Steel Company and Jones & Laughlin. That is, part of our requirements.

Q. Is that all your contracted requirements, so far as you have them under contract, I mean?

A. Yes, sir.

Q. What tonnage did you give to the Illinois Steel in structural?

A. I could not tell that, because our structural and plates and bars were all lumped.

Q. Your plates and bars and structural were all put in one?

A. They were all bunched.

Q. Did you have one base price for plates and another base price for bars, and another base price for structural?

A. No, sir; we had a base price for bars and a base price for plates and structural.

Q. I do not know whether I understand you or not. Did you have one base price that covered all three?

A. No, sir; one base price for bars and one base price for plates and structurals.

Q. In regard to the purchases other than those by contracts for 1912, you do not now recall the different companies bidding on each of the individual purchases, and the relation their bids bore to one another, do you?

A. No; I do not recall that definitely. We had contracts with the Portsmouth Company back there in the years—well, somewhere between 1904 and 1907, but I do not remember just whether they ran in sequence or in and out.

Q. Now, is the same thing true in regard to plates, certain of your plate tonnage not covered by contract, for the year 1912?

A. As to my recalling the different figures?

Q. Yes, and the relation they bore to each other?

A. No, I could not tell you.

Q. And bars; would your answer be the same?

A. The same thing.

Q. And would it be the same for 1913 as it is for 1912, in respect to both bars and plates?

A. No. I have some recollection of fresh trades that were made on individual orders.

Q. I will take up 1913 later, then. Returning to 1912, could you give me the approximate tonnage given to the Illinois Steel Company in plates, structural and bars? I understand that the contract covers all three.

A. Yes. Well, I didn't divide it; it was all lumped; I didn't split it.

Q. I asked for the entire tonnage given to the Illinois in all those products.

A. 2,000 tons. That was the contract, I am speaking of there.

Q. When did you make the contract with the Illinois Steel Company? This is 1913; you may have given it, but I have forgotten it if you did.

A. It was in December last.

Q. December, 1912?

A. Yes.

Q. And with Jones & Laughlin, give the date of that contract again; I wish you would, for the year 1913.

A. Jones & Laughlin had no contract in 1913. That was the Inland.

Q. All right; would you give the Inland?

A. I think that contract was made in January, this year.

Q. Do you recall the base price of plates in the Illinois contract? I am now speaking of the one that was made in December, for the year 1913, to be delivered in 1913?

A. That contract was $1.60, according to my best recollection.

MR. SEVERANCE: Which contract is that, with the Inland?

THE WITNESS: No; that is Illinois Steel.

By MR. COLTON:

Q. And the Inland was made about a month later?

A. About a month later.

Q. And what was that?

A. $1.60.

Q. That is on what material? What did I ask you about?

A. That is on plates and structural.

Q. Did you have a different base for your bars?

A. I believe we had a different base for bars, which was five cents a hundred lower.

Q. What was the price of each of those different companies?

A. $1.55.

Q. For each of the different companies?

A. Yes.

Q. That quotation of $1.60 is f. o. b. Pittsburgh?

A. No; that was delivered at Milwaukee.

Q. And the $1.55 was delivered at Milwaukee?

A. Yes.

Q. Who paid the freight on that?

A. The shippers.

Q. Are all your bids that you receive for steel delivered at Milwaukee?

A. Most of them.

Q. Would your answers for various years in respect to wire nails be the same as in regard to plates, structural and bars?

A. Just about the same.

MR. SEVERANCE: What do you mean by that? Generally, as to what?

By MR. COLTON:

Q. I will ask you whether you now recall and keep in mind the different questions that I asked you about the prices and the relation of prices to one another?

A. Yes.

Q. And the times when the prices of the manufacturers were about the same, and the extent to which they varied? You have got those questions in your mind?

A. Yes.

MR. SEVERANCE: You have asked about certain specific contracts in bars. Do you mean to have your question refer to these general matters?

MR. COLTON: These general questions that I have asked him about plates and structural and bars; so as to save time; that is all.

THE WITNESS: The answer is the same; that is my understanding.

By MR. COLTON:

Q. Would your answers be the same as regards boiler tubes?

A. Yes, I think so.

Q. Axles?

A. Yes, I think the same. I do not recall the exact circumstances in each trade.

Q. Do you recall as to any of those, back of 1911, the prices of the different products or the relations that the prices bore to each other, or the extent to which several of the manufacturers at given times quoted the same prices, and the extent to which they quoted different prices?

A. No; I cannot tell that at this time.

Q. Would your answers be the same for wrought pipe as for structural and plates?

A. Yes.

Q. For tin plate?

A. Yes.

Q. For barbed wire?

A. The same.

Q. You have nothing to do with the buying of rails, as I understand?

A. No, sir.

Q. Those are bought by the vice-president, and whatever conference he has with the other officers of the company you have nothing to do with?

A. No; I am not in on that.

Q. Only during the last two years you have been purchasing agent?

A. Well, I am not purchasing agent now, although I am in active general charge for the last two years.

Q. And during the last two years your duties have been somewhat broader than they were before, have they not?

A. Well, just a trifle.

Q. The gentleman that is purchasing agent has practically retired in the last two years?

A. Yes; but he has been there continuously, and he is there now.

Q. I understand. I was going to say that your activities had somewhat broadened in the last two years, as compared with what your duties were with respect to the purchase of steel products prior to that time; is that correct?

A. No; my buying activities have been practically the same for quite a number of years back of 1912.

Q. You put it up to the purchasing agent, did you not?

A. No, sir; not unless I wanted to.

Q. But you did at times?

A. I might have conferred with him occasionally.

Q. Do you confer with him now?

A. Not very often.

Q. What you mean is that you confer with him less now,

and you assume more responsibility than you did in the past?

A. That is the idea exactly.

Q. Would your answer be the same in respect to sheets?

A. Yes.

Q. Did you, when you placed your contracts for patent rail joints, or for splice bars, get separate bids on splice bars and patent rail joints?

A. Yes; they are not strictly competitive goods, inasmuch as one joint may have particular features of excellence, and we would regard that as worth so much money.

Q. Then the prices are not strictly comparable between the two articles, and for that reason you separate the two articles?

A. That is the idea.

Q. How long have you been using the patent rail joints?

A. For ten years, I guess; ten or twelve years.

Q. Has the proportion between the patent rail joints and the splice bars or angle bars been the same for the whole period, or have the patent rail joints come more into use?

A. They have obtained a greater footing, I think, in the supply for railroads than in former years.

Q. Would your answers be the same in respect to poultry netting as in regard to the other products?

A. No poultry netting.

MR. COLTON: That is sufficient.

REDIRECT EXAMINATION

By MR. SEVERANCE:

Q. Just one or two questions. These rail joints and angle bars are used for the same purpose?

A. They are used for the track fastenings, for fastening rails together; they are for the same purpose.

Q. Are there or are there not times when you will have more than one contract running at the same time, covering the same commodity, with a uniform price to each mill, where the initial bids or tenders or quotations to you have been varying?

A. Yes, they have varied in that way, and have been brought into line by dickering.

Q. Just one other question that I forgot. Do you buy the bridges for the road?

A. No, sir.

MR. LINDABURY: He said he did not.

MR. SEVERANCE: When did he say it?

MR. LINDABURY: A little while ago, after I got here.

MR. SEVERANCE: Maybe he did. I did not hear him say it.

THE WITNESS: No, I did not say that. We do not buy the bridges.

By MR. SEVERANCE:

Q. Which official in your service handles that department?

A. The chief engineer.

MR. SEVERANCE: That is all.

MR. DICKINSON: That is all.

MR. SEVERANCE: Mr. Van Hagen.

GEORGE E. VAN HAGEN

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. Van Hagen, where do you live?

A. Chicago.

Q. What is your business?

A. I am vice-president of the Standard Forgings Company.

Q. And what are your functions as vice-president of that company?

A. I have entire supervision of buying and selling the material, as well as general supervision of the operation of the works.

Q. What is the business of that corporation?

A. Manufacturing steel railroad car axles, locomotive axles and heavy steel forgings, consisting of engine shafts and connecting rods, mining machine forgings and so forth.

Q. Which is the larger part of your tonnage?

A. Railroad car axles.

Q. Steel forgings or the other?

A. The railroad car axles.

Q. What is your annual tonnage in all classes of product?

A. About 90,000 tons a year.

Q. And what is your annual tonnage in locomotive and car axles?

A. About 80,000 tons a year; 80,000 to 85,000.

Q. From what do you manufacture these car and locomotive axles; that is, in what form is the steel when it comes to you?

A. Open hearth steel billets.

Q. You make them out of steel billets?

A. Steel billets; yes, sir.

MR. COLTON: Is this a year?

THE WITNESS: Yes, per year.

By MR. SEVERANCE:

Q. And where is your market for car and locomotive axles, Mr. Van Hagen?

A. In Chicago, St. Louis, St. Paul and west of the Mississippi River, with occasional shipments to Detroit.

Q. You do not get further east than Detroit?

A. No.

Q. Will you state with whom you come in competition in the sale of car and locomotive axles in the territory you have mentioned as your market?

A. Willard Sons & Bell Company, of South Chicago; the Pollak Steel Company, of Cincinnati; Carnegie Steel Company, Pittsburgh Forge and Iron Company, Cambria Steel Company, and, for the past year or so, the Illinois Steel Company have operated a forge at Gary, Indiana.

Q. What percentage of the total business of the country,

would you say, is included in the axles manufactured by Carnegie and the Illinois Company, so far as you know?

MR. COLTON: I object to that on the ground that the witness is not shown to be competent to testify on this subject, or that he has made any preparation from statistics that will enable him to testify.

MR. SEVERANCE: Cut out the question if there is any objection made.

By MR. SEVERANCE:

Q. How does your plant compare in size, if you know, with Willard Sons & Bell?

A. It has practically the same capacity.

Q. How does your plant compare in size with the Howard Axle Works of the Carnegie Steel Company?

A. Their plant has a capacity of possibly ten per cent. more than we have, a slightly greater capacity than we have.

Q. How does the capacity of the Pollak Steel Company's plant compare with yours, if you know?

A. The Pollak Steel Company's plant has a capacity of about 80 per cent. of ours.

Q. How does the capacity of the Cambria Steel Company, that is, its axle department, compare with yours, if you know?

A. Their capacity, I should say, was about 33 1-3 per cent. of ours.

Q. I will ask you the same question as to the Pittsburgh Forge Company.

A. The Pittsburgh Forge would be about 33 1-3 per cent. of ours.

Q. I will ask you the same question as to the Illinois Steel Company, the Gary plant, which you say has recently gone into operation?

A. The Gary plant has a capacity at present of about 75 per cent. of our capacity.

Q. What is the nature of the competition, if any, between your company and the other manufacturers, and what has it been during the time you have been in business, as to being restrained by agreements on prices, or otherwise?

A. There has always been very sharp competition for rail-

road car axle business between ourselves and our various competitors that have been named, and so far as our company is concerned, we have always refrained from entering into any understanding as to prices on railroad car axles, and have acted independently by ourselves.

Q. Has the competition between the various concerns that you have mentioned been active, or has it been of a passive character?

A. It is extremely active, constantly so, and has been constantly active for the past ten years through the period the Standard Forgings Company has been doing business.

Q. Have you been familiar from time to time with the quotations made by various other concerns with whom you have been in competition on different orders?

A. We always try to get that information from our customers, wherever we can, so as to keep a general line on the market.

Q. They bid against you, do they, for orders?

A. All these various forging companies, companies operating forges, bid against us on practically every order that comes up, and as I say, we try to learn what our competitors are doing from our customers if we can.

Q. In cases of this competitive bidding are the contracts sometimes awarded to you and sometimes to other people?

A. Yes.

Q. You have mentioned, in answer to my question, the capacity of the various plants as near as you could get at them?

A. Yes.

Q. Has their percentage of distribution of their output been very different from their capacity, as far as you have observed it?

A. Well, all of these various forging companies operate to their full capacity when there is sufficient business to that end. If the buying of railroad freight cars is brisk so that there is a demand for car axles all over the country these companies could operate to their respective capacities.

Q. To whom do you sell your axles; do you sell to the railroads or to other parties?

A. Railroads and car builders.

Q. In the case of new equipment who buys the axles, the railroad or the car builder?

A. Generally the car builder.

Q. Then the axles you sell the railroads are mostly for repairs?

A. Except in certain instances where a railroad company has shop facilities for building new cars, in which case they would buy the axles for the cars they built at their own shops.

Q. When your company was incorporated ten years ago what was its capacity?

A. Our plant was originally built with a capacity of 100 tons of axles per day, and we now have a capacity of 400 tons per day.

Q. Do you use open hearth or Bessemer steel billets?

A. Open hearth.

Q. Where do you make your purchases of billets?

A. We have during the ten-year period purchased billets from the Illinois Steel Company, the Inland Steel Company, the Lackawanna Steel Company and the Portsmouth Steel Company, the Southern Steel Company and the Tennessee Coal, Iron & Railroad Company.

Q. How long ago did you first buy from the Tennessee Coal, Iron & Railroad Company?

A. About ten years ago.

Q. How did the billets which you have secured from them compare with the northern billets in quality?

A. The quality of the axle billets from the Tennessee has not been quite as good as those received from the Northern mills, where they had greater experience in making axle billets. Billets for railroad car wheels are usually a special quality of open hearth steel billets, and are not billets in the ordinary trade sense. Ordinarily, when billets are named, it is understood that they are billets for rerolling.

Q. Has the market for billets of the character which you use been a competitive market or otherwise?

A. It has been a competitive market.

Q. When you have been in the market for billets have you had bids or quotations made to you?

A. We have always had to get a price on our billets. Before placing orders we get our bids.

Q. That is, you get bids before you place your orders?

A. We get bids; yes.

Q. Have those bids, as you have received them, been usually uniform or varying?

A. The bids have always varied and——

Q. How big a spread has there been?

MR. COLTON: I do not think he has finished his answer.

MR. SEVERANCE: Pardon me.

THE WITNESS: I was going to possibly anticipate that by saying that the variation was as much as from 50 cents to $7.00 per ton, depending on the condition of the steel market at the time the quotation was made.

By MR. SEVERANCE:

Q. $7.00 a ton is a pretty big spread, is it not?

A. Yes.

Q. When was that?

A. We found such variations in the year 1907.

Q. Do you recall what the minimum and maximum price was when you found that much variation?

A. We were quoted in 1907 $28 per ton by one concern, and $35 per ton on the same quality of material by another concern.

MR. COLTON: Would you ask him if that was at the same time? I assume it was.

By MR. SEVERANCE:

Q. Was that at the same time?

A. Oh, yes; at the same time.

Q. That was on the same inquiry for bids, was it?

A. Yes.

Q. Was that at a time of great demand for billets?

A. It was; the most extraordinary demand that we have had for many years.

Q. Was the Illinois Steel Company one of the bidders at that time?

A. Yes, sir.

Q. Do you remember what its bid was?

A. Their bid was $28.

Q. Since the time of the great boom in 1907, when you found this spread of $7 a ton, what is the greatest spread you have known in the bids made to you? You said the minimum was 50 cents?

A. Yes, sir.

Q. Now, what would be the highest?

A. Well, in the early part of 1912 we had prices varying $4 per ton.

Q. You spoke of having bought billets from Lackawanna. How did you move those to Chicago?

A. By boat, mainly. We have purchased several lots of billets from Lackawanna, and there was one order of about 5,000 tons that was moved from Buffalo by boat; there were two shiploads came in.

Q. Are these billets that are thus sold in the market a product that is used also by the various mills in their finishing plants, or are they manufactured solely for the market?

A. Well, nearly every concern manufacturing open hearth billets has plate mills or bar mills or structural mills, where that same billet could be rolled into some steel form and marketed as finished material, rather than sold as billets, and, in a sense, the billets that are marketed by such mills are their surplus tonnage over and above their own mill requirements.

Q. Then the amount that the various mills have to sell depends somewhat upon the needs of their own finishing mills?

A. Yes, sir.

Q. Do you buy your billets under contract or for periods of time, or do you buy definite tonnages, or how do you do it?

A. We make our purchases in a number of different ways. For example, we have frequently bought 10,000 tons at a time for delivery over a certain definite period of two or three months, and possibly other axle orders would come along within a few days after such 10,000 ton purchase was made, and another 10,000 ton purchase would be made, so that at times we have had as much as 75,000 tons purchased from

different mills coming to us, deliverable in the ensuing six or eight months.

Q. Now, when you have those contracts out at the same time, are they at the same or different prices?

A. Frequently there are a number of different prices applying on the different contracts, due to the market conditions when they were placed, although I have known the time when we have had as much as 50,000 tons all bought at the same price.

Q. From whom do you buy the largest share of your tonnage at the present time?

A. From the Illinois Steel Company.

Q. How near are they to you?

A. The Gary plant is about six miles, and the South Chicago plant about twelve or thirteen miles from our plant at Indiana Harbor.

Q. What concerns are there that solicit your business, other than the ones from whom you have bought—your billet business?

A. We have bought billets from nearly every concern that has solicited the business, I think. There have been one or two—there is a mill in Cleveland, owned by the Upson Nut Company, that has solicited billet business from us, and the La Belle Iron Works have solicited at times, and certain brokers in Pittsburgh, representing mills that I am not familiar with now, have offered us billets, and, in addition to those, we have bought from the concerns I have mentioned.

Q. What has been the character of the service you have received from the Illinois Steel Company?

A. Their service in respect to deliveries has been good, and in respect to the quality of material, it is excellent. At present, the percentage of billets we are obliged to reject for all causes is so small that we never consider it, it being possibly one-tenth or one-fifteenth of one per cent.

MR. SEVERANCE: I think that is all.

CROSS EXAMINATION

By Mr. Colton:

Q. Do you have any requirements for carbon and sulphur in connection with these billets?

A. Yes; our chemical requirements are governed by the Master Car Builders' specifications, which have been adopted by practically all the roads as standard, and those specifications limit the per cent. of carbon, phosphorus, sulphur and manganese.

Q. Would you give those percentages?

A. The carbon is .35 to .50 of one per cent., and the manganese, I think, is not over .60. They do not put a minimum on it, because it will generally run about .45 manganese, but we do specify against anything over .60, because it is too hard; and the sulphur and phosphorus are about .05. It is possible that the sulphur is allowed to run up to .06; I am not sure as to that, but it is generally below that in our steel.

Q. You say your sulphur can run to .05?

A. Yes, .05.

Q. It should not be over .05?

A. Not over .05.

Q. Do you ever specify under .05?

A. Well, we specify not over those percentages, and the average is somewhere in the neighborhood of .03.

Q. .03 is below the usual standard specification?

A. Yes; it is very good, you see.

Q. Yes.

A. Very low.

Q. Now, this is a special type of billets, as contrasted with the ordinary billets for re-rolling into other products, is it not?

A. Yes, sir.

Q. You are not familiar with the prices of billets for ordinary re-rolling?

A. We do not use those. We never buy them.

Q. You have never had any particular occasion to look into those prices?

A. No.

Q. And you do find this variation—the greatest variation that you have had in this special type of billets has been $7 a ton, during your whole experience?

A. Yes, sir.

Q. And at other times on this special type of billets you have found variations of as much as $4 a ton?

A. Yes, sir.

Q. Is that the next maximum?

A. Yes; I rather think it is.

Q. What would be the ordinary variation?

A. Oh, the ordinary variation would be 25 to 50 cents a ton; pretty close.

Q. When you say "25 to 50 cents a ton" are you there giving an instance where several bid; the minimum and the maximum—the range?

A. Yes, sir.

Q. I believe you stated you first purchased from the Tennessee Company three years ago?

A. Three years ago.

Q. How long has your company been in business?

A. Ten years.

Q. What quantity of axle billets did you place with the Tennessee Company three years ago?

A. It was two years. It was 1911 and 1912.

MR. SEVERANCE: It is not three years ago? Two years ago?

THE WITNESS: Yes; two years ago.

MR. SEVERANCE: I thought you said on direct examination three years ago.

THE WITNESS: Did I? It is a mistake then.

MR. COLTON: You may change it, if you want.

THE WITNESS: In 1911 and 1912 we bought about 20,000 tons from the Tennessee Coal, Iron & Railroad Company.

By MR. COLTON:

Q. Now, in 1911 to 1912 you bought that?

A. During those two years.

Q. During those two years?

A. Yes, sir.

Q. How was it distributed between those two years?

A. About half and half, I think.

Q. About half and half?

A. Yes, sir.

Q. Now, do your contracts with the Steel Corporation's subsidiaries have a provision that occurs in some of the Corporation's contracts that it may fulfill from any one of its mills?

A. Yes, I have noticed that, but I never paid any attention to it.

Q. It is in there, is it?

A. Yes, I think it is in there.

Q. It is one of the written provisions of the contract?

A. Yes; I think it is.

Q. Do you recall the price that you paid to the Tennessee Company for these billets?

A. There were several orders or contracts representing this total, and the billets ranged from about $21 to about $23 f. o. b. Birmingham.

Q. They quoted you f. o. b. Birmingham, did they?

A. Yes, and there was a freight of $4.75 per ton to Chicago.

Q. That would cover the whole 20,000 tons?

A. Yes, sir.

Q. You do not know how long they have been quoting f. o. b. Birmingham—the Tennessee Company?

A. No, I do not know, but I know that we paid the freight on everything that came up, and that is our only experience with them.

Q. In 1911, what did you buy from the Illinois Steel Company—1911 and 1912; take the same two years?

A. 1911 and 1912?

Q. Yes; what tonnage from the Illinois Steel Company?

A. I think during that period we bought about 150,000 tons from the Illinois.

Q. And what was the range in prices there? Was that f. o. b. Chicago or f. o. b. Pittsburgh?

A. No; that is f. o. b. Indiana Harbor, our works. It is equivalent to f. o. b. Chicago.

Q. The price delivered at your works is exactly the same quotation as it would be f. o. b. Chicago?

A. Well, yes; it would be to anybody except the Illinois Steel Company. Any concern outside of the city; that is, to anybody in Pittsburgh or in Ohio or in Alabama, the freight rate to Indiana Harbor is the Chicago rate, so you might say delivered to us is f. o. b. Chicago. The Illinois Steel Company simply have to pay a switching charge to get over there.

Q. The Illinois Steel Company quoted you there; when they quoted you at your works, they quoted you the same price as if they had been quoting at their own works, f. o. b. Chicago, their own works?

A. I suppose so. It would only be ten or fifteen cents a ton involved, you see, in the switching charge. We buy everything from them delivered at our works.

Q. What did they sell that at?

A. What did they sell it at?

Q. Yes; that 150,000 tons, what was the range in prices? I suppose there were a number of different prices for that 150,000 tons?

A. Yes, there were. The prices ranged from $20 to $27.

Q. What tonnage did you get from the Illinois Steel Company in 1913?

A. Our purchases this year have been rather light, because the railroads have, most all of them, stopped buying cars. I think we have bought only about 25,000 tons so far this year.

Q. Have you bought any this year from the Tennessee?

A. No, sir.

Q. How much have you bought from companies other than the Illinois Company this year?

A. None.

Q. How much did you pay the Illinois Company this year?

A. We have several purchases.

Q. Just give the limits?

A. From $27 down to about $22 per ton.

Q. Now, in 1911 and 1912 did you buy any from the Carnegie Company?

A. No; we have never bought any billets from the Carnegie Company.

Q. You never have bought any axle billets from the Carnegie Company?

A. No.

Q. You say you never bought any axle billets; you never bought any billets?

A. We never bought any billets from the Carnegie Company.

Q. In the year 1913 your purchases in axle billets were confined to the Illinois Company; is that correct?

A. Yes.

Q. In 1912 what percentage of your billets came from the Illinois and the Tennessee companies?

A. Well, I cannot recollect just what tonnage was placed in 1911, or what was placed in 1912. During those two years we purchased approximately 150,000 tons from the Illinois and 20,000 tons from the Tennessee.

Q. How much outside?

A. Nothing outside.

Q. In 1910, or if you like you can group two years together, if you can do it better.

A. I can separate this thing better from the beginning than to go backwards.

Q. Beginning with the first year you went into business, tell me how much you bought from the subsidiaries of the Steel Corporation, whatever they may be, and how much you bought on the outside, as best you can.

A. Our first purchases were in 1904. The company was organized in 1903, and we built our plant that year, and completed it in the spring of 1904.

In 1904 our purchases were divided about equally between the Illinois and the Inland Steel Company.

Q. What did they amount to?

A. At that time, to only about 15,000 or 20,000 tons for that year. In 1905 the Illinois Steel Company got about 60 per cent. of our business, and the Inland, Southern, Portsmouth and perhaps some of these other concerns got the other 40 per cent. That year we bought about 40,000 tons.

In 1906 the same ratio applied, and our tonnage increased about 10,000 tons—about 50,000 tons that year.

Q. From whom did you say you bought during that year?

A. About 60 per cent. from the Illinois Steel Company and about 40 per cent. from the Inland and the Southern—all those other concerns.

Q. Whatever they may be for the different years.

A. Then in 1907 we got about 75 per cent. of our requirements from the Illinois Steel Company and 25 per cent. from outsiders, all others, including the Lackawanna. We purchased quite a tonnage from the Lackawanna in 1907.

Q. Did you state what your tonnage was in 1907?

A. No; I was just trying to remember. We purchased about 70,000 tons altogether that year. Now, since 1907 our purchases have been confined almost entirely to the Illinois Steel Company, with the exception of these 20,000 tons from the Tennessee.

Q. Well, now, from 1907 on?

A. In 1908 our tonnage was small, because the business was small; possibly 35,000 tons.

In 1909 the tonnage was up to about 70,000 tons, and in 1910 we bought nearly 100,000 tons. 1910 was the largest tonnage year that we have had.

Q. From 1907 on, from which time you dealt exclusively with some one of the subsidiaries of the United States Steel Corporation, did you ever have any contract running over a year?

MR. SEVERANCE: You mean covering a whole year?

MR. COLTON: Covering a whole year, or as long a time as a whole year.

THE WITNESS: No; I cannot say that we have had any as long as that.

By MR. COLTON:

Q. What is the contract calling for the largest amount of tonnage you ever placed with the Illinois Company since 1907?

MR. SEVERANCE: You mean the largest minimum tonnage?

MR. COLTON: Yes.

THE WITNESS: We have never bought at a single time more than 10,000 tons, but we have repeatedly bought 10,000 tons from them, so that at times they have had as much as 70,000 tons of material for us on their books.

By MR. COLTON:

Q. Since you began to deal practically exclusively with the Illinois Company, and as you say, with the Tennessee Company, with each one of these different orders have you taken up the question with all of these different concerns as to what they would bid on it?

A. No.

Q. You have gotten satisfied with the Illinois Company and you placed your order with the Illinois Company very often in respect to those; is that right?

A. I have not thought it necessary to go outside when I was thoroughly satisfied with their proposal as to price and delivery.

Q. And you could figure the market close enough on this thing to be satisfied without taking special bids? That is the way you felt about it?

A. Yes; there is a sort of general proportion between the price of axles, structurals and billets and so on, so that from experience I can pretty well know what I am doing on a thing.

Q. How did you get at the price on either the particular form of billets or axles or structurals, or whatever those were? How did you get at that price from which to figure down? Well, axles, I suppose, you fix your own price on axles, so that you knew the market price on axles?

A. I knew the market price on axles. That is our own business, and we tried to keep awake on that point.

Q. How about structurals and the other things that you spoke of? How did you get at the market price on those?

A. By asking any one of three or four car builders that we were selling axles to what they were paying for structurals.

Q. And you informed yourself in that way?

A. Yes.

Q. And you used that method in seeing that you got the market price with the Illinois Company, or a little better, if it would give you any better?

A. We did the best we could.

Q. And that applies since 1907 in general?

A. Yes; it does. The Illinois Company, of course, I suppose considers our business as worth something. It runs into quite a lot of money.

Q. I should think they would.

A. On the other hand, we have appreciated the stability of prices and the supply that we have been able to get there.

Q. You have sort of established mutual relations that are satisfactory to both of you?

A. Yes. We are using enough material so that we could really afford to make our open hearth steel if we had to.

Q. You spoke of the different percentages for these different works. You were just giving a rough estimate at that time?

A. Well, that is pretty close. I know what each one of those concerns can do. I have visited most of their plants.

Q. What is the total tonnage in axles sold annually? Suppose we take it by years, because it is different from year to year.

A. I do not know that I could give it to you by years, the total; but I should imagine that there were about 800,000 axles, or, in round figures, 300,000 tons, consumed per annum in the United States.

Q. And you think, on the average, there is about 300,000 tons of that class of product produced in the country?

A. Yes.

Q. Of course, the amount sold would run pretty close to that, if it is produced?

A. You see, I am assuming that on this basis; you run four axles to a car, and 200,000 freight cars would represent a little more than the average number of new ones that are built in this country every year. This year there will not be 100,000.

Q. When were you last at the Howard Axle Works of the Carnegie Steel Company?

A. It was about ten years ago.

Q. And you have not been there since?

A. I haven't been there since, no.

Q. So, whatever you knew about the size of that plant since ten years ago is based on something somebody else told you?

A. Well, they had that plant at that time right up to full capacity, and they could not have put in another hammer unless they made a radical increase in the plant. Now they have told me that their plant was about the same. I know they could not increase it from their method of manufacturing there; and the arrangement of the plant is such that they could not increase the capacity without adding an entire new unit to that plant; if they increased it at all, they would increase it 50 to 100 per cent., and they have not done that.

Q. And your reason for saying that they have not done that is that they told you that they did not?

A. I did not mean the Carnegie people have told me. I got that from some of our customers that buy from them occasionally.

Q. From people that have told you that?

A. People that have told me that.

Q. It is based on hearsay?

MR. SEVERANCE: There is no question about the fact.

THE WITNESS: There is no question about the fact. I will tell you how the plant is built, and prove the assertion.

By MR. COLTON:

Q. You saw it ten years ago?

A. Yes.

MR. COLTON: I object to this witness testifying in regard to that, on the ground that it is based on hearsay.

MR. SEVERANCE: Do you want us to go around and bring all these people here to show what their tonnage is?

MR. COLTON: No, but it is statistics you can get from Swank's. You put them in evidence, and we have put them in evidence.

By Mr. Colton:

Q. Have you been to the Pollak plant?

A. Yes, but I have not been there in three or four years.

Q. It is hearsay for the last three or four years?

A. Yes, but I will gamble on it.

Q. When were you at the Willard Sons?

A. I went by the Willard Sons' plant day before yesterday, coming to New York. Their building is right alongside of the railroad track.

Q. What is the size of their plant?

A. They have two forge shops, one parallel with the other, and each shop has, I think, eight steam hammers in it.

Q. What is a unit in this thing, a hammer?

A. Yes.

Q. You classify the tonnage by the number of hammers that they have got? Is that the way you fix it?

A. Generally.

Q. And each hammer turns out about the same amount, practically?

A. It is supposed to, yes.

Q. How about the Pittsburgh Forge Company?

A. I have never been to the Pittsburgh Forge Company. It is all hearsay about the Pittsburgh, although I have a pretty strong idea I am right.

Mr. Colton: I object to this witness' testimony in regard to the capacities of various plants, on the ground that it is based in whole or in part on hearsay.

REDIRECT EXAMINATION

By Mr. Severance:

Q. Just one minute. You stated to counsel that for several years past you have been giving the bulk, or nearly all, of your business to the Illinois Steel Company.

Mr. Colton: I think he said exclusively.

By Mr. Severance:

Q. Well, practically all, we will say, except what went to the Tennessee?

A. Yes.

Q. And that you have not felt it necessary to invite bids from all these other people?

A. No, sir.

Q. Have you, as a matter of fact, had quotations made to you showing these variations to which you testified on direct examination, ranging from 25 cents to 50 cents up to four dollars a ton?

A. Yes; many have been in the office representing other steel mills, and have offered us billets, and to my knowledge have sold billets to Willard Sons & Bell Company.

MR. COLTON: I object to this testimony on the ground that it is hearsay.

MR. SEVERANCE: What is that?

THE WITNESS: Well, I say this may be considered hearsay, because I have not seen the billets in the plant, and I have not seen the contracts, but they claim, these Pittsburgh people—they offered me billets last winter, or a year ago—that they had sold billets to our competitors in South Chicago and told us what their prices were.

By MR. SEVERANCE:

Q. I care nothing about that; what I want to know is whether other mills, or representatives of other mills, have been to you and made these varying quotations during this period, when you have felt it to your advantage to buy from the Illinois?

A. Yes.

RECROSS EXAMINATION

By MR. COLTON:

Q. How did you happen to purchase from the Tennessee Company?

A. The reason for that was this: We had figured on getting a lot of open hearth billets from the Gary plant of the Illinois Steel Company, and their furnaces fell down there and they did not produce the tonnage that they anticipated, and we found that we could get some steel from the Tennessee, and we bought it so as to have a sufficient supply of steel

coming in at that time, because the Gary plant was not producing as rapidly as they anticipated.

Q. And you considered that steel as satisfactory as any of the independent companies, didn't you?

A. Oh, yes.

Q. It was good steel?

A. Yes; it was a very small percentage, and we were accustomed to get very good steel from the Illinois.

Q. They have been making this character of steel for a good many years?

A. The Tennessee?

Q. No; I had not finished my question. The Illinois has been making it for a good many years, and that is a factor in getting the class of steel that you wanted?

A. Yes.

Q. And the Tennessee Company was new at the business, and that might account for whatever little deviation there was in the grade of its billets?

A. Yes.

By Mr. Severance:

Q. Did the Tennessee billets cost you any more than the ones you bought from the Illinois, laid down at your works?

A. Yes; it cost us about 25 cents a ton more; that is, a portion of them did; about one-third of them, as near as I can recollect now, cost us about 75 cents a ton more; and the balance, I think, were just about the same price delivered.

By Mr. Colton:

Q. During these last years that you have been dealing practically exclusively with the Illinois Company, you have not, with the outsiders, kept especially in touch with their prices, have you? I mean, outsiders other than the United States Steel Corporation.

A. Why, I have at times gotten some pretty definite quotations from them. Two years ago we had some negotiations on with the Lackawanna, for example, for quite a round tonnage of steel.

Q. Those have been at rather infrequent periods?

A. No regular periods; infrequent periods. Our billet

purchases have not been made at any regular stated periods. We are likely to buy a large quantity one month and then skip several months before buying any more.

Q. Do you remember any instance in which you had up any special tonnage with four or five companies outside of the United States Steel Corporation since 1907?

A. No; I have never brought as many as four or five into the matter at any time, whenever I was buying billets. I would be satisfied with the prices from two or three, at the outside, and since 1907, or during the past two or three years, we have frequently had prices from the Lackawanna and the Inland, and so forth.

Q. In 1907 with what different companies did you take up the purchase of any given tonnage of axle billets at a given time?

A. In the fall of 1907 I took up the purchase of 5,000 tons of billets with the Lackawanna Steel Company, and bought them.

Q. What did you buy them at?

A. $33, delivered at Indiana Harbor.

Q. That was the only company that you took it up with at the time?

A. No; I had a price from Inland at $35.

Q. You had a price——

A. From the Inland Steel Company, at $35.

Q. Was their product not satisfactory to you?

A. Their product was all right, but their price was too high.

Q. Did you take it up with anybody else?

A. And we were buying billets at that time from the Illinois Steel Company at $28 to the extent of, I think it was, 3,000 tons a month, which was all of the free steel that they had at that time.

Q. Well, you did not offer to place that order with the Illinois Steel Company, and get a special bid?

A. We were buying from the Illinois Steel Company all of the steel that they had to spare over and above their requirements for their own mills at $28.

Q. That was 1907?

A. Yes, 1907.

Q. When did you next get any bids from outsiders?

A. I should say it was about 1909.

Q. That you next did it?

A. Yes.

Q. And what different companies did you take it up with?

A. We purchased from Illinois during that year practically all our requirements, but we had bids at times from Inland, and also from the Lackawanna Steel Company.

Q. Now, I want a bid on a definite amount of tonnage that you took up with more than just one company outside of Illinois, if there were any such instances.

A. I could not give you that information from recollection.

Q. Do you recall that there were any such instances as that in 1909?

A. Do you mean where we had——

Q. Where you had an amount of tonnage that you wanted on the outside, and took up the question of placing that tonnage with two or more mills on the outside of the Corporation?

A. No; I think that the Illinois Steel Company were supplying us with all that we needed at that time.

Mr. Severance: You do not want to leave it that way, do you?

Mr. Colton: I think that is an answer to my question.

Mr. Severance: The other people, though, made him quotations.

Mr. Colton: He said that one mill at a time made him quotations, as I understood it, but that he did not take up any specific order for axle billets with more than one mill on the outside.

By Mr. Colton:

Q. Did you not say that?

A. Well, I think I said the Illinois Steel Company was supplying us with all our needs in 1909.

Q. Yes.

A. And that I could not say from recollection as to any definite instance where we took up a specific tonnage and got quotations on it from two or three outside mills. I could not give you any definite instance of that sort, but we had prices during that period from these other mills, whose names have been frequently mentioned, and who have been constantly quoting us from time to time.

Q. Now, during 1909 did you take up, whether you can name the specific time at which you took it up—did you take up with outside mills, two or more of them, any specific order for tonnage of steel?

MR. SEVERANCE: I object to that as already answered over and over again.

MR. COLTON: I do not think so, Mr. Severance. Will you read the question to the witness?

MR. SEVERANCE: He has heard it. He has just answered it.

MR. COLTON: I think you are talking too much to the witness. I think we would get along faster——

MR. SEVERANCE: I think we would get along faster if you did not ask the same question over and over again.

MR. COLTON: Read the question.

(The question was read by the stenographer.)

THE WITNESS: Yes.

By MR. COLTON:

Q. Now, with what mills did you take it up?

A. I understand there have been practically the same mills in the field, selling open hearth steel, during all this ten year period. That is, the Lackawanna, the Inland, and these Ohio mills, the Southern Steel Company, and so forth, and their representatives run in to see us, or they write us letters, every once in a while, soliciting business or making us quotations, or if they do not include a quotation in their letter soliciting business, we may write them to sound the market and see what they would say.

MR. COLTON: Now, will you read him the question again? I do not think you understood it. I am not asking you on the general line of bids, and if you will note the question carefully and address your mind to it——

THE WITNESS: If you will please read the question?

(The question was again read by the stenographer.)

THE WITNESS: My answer to that was "yes," that we had.

By MR. COLTON:

Q. Now, what quantity of steel was involved in any transaction in which you took up with mills outside of the United States Steel Corporation the question of placing your order with them, and what were the bidders?

A. I can not give you definite information as to that. I do not recollect exactly. I know we have frequently done it; frequently did so in 1909.

Q. Do you now, as a matter of recollection, state that you took up as to a specific quantity of steel——

A. Oh, yes; the question of quantity is always involved. We might, for example, ask a mill for a price on 1,000 tons, to see what their ideas of the market were.

Q. At any one time during the year 1909 to how many mills did you submit a proposition to place an order for steel, and ask for quotations by them?

A. We never did that.

Q. You did not do that at all?

A. No.

Q. Now, is not this——

A. We do not submit propositions to place an order. We might ask them for a price on a definite quantity, but we would not consider that we were in any way obligated to place any tonnage with any one of them.

Q. Now, at any given time during the year 1909, state with what different mills you took up the question of placing a specific amount of tonnage, if you now recall, giving all the different mills with which you took the question up at the particular time.

A. I could not recall any definite circumstance of that kind.

Q. Did you at any time, during the year 1910, take up with two or more mills outside of the United States Steel Corporation the question of placing tonnage?

A. In 1910?

Q. Yes.

A. I think we did, on one or two occasions, take up the matter of placing tonnage with Inland and Lackawanna.

Q. Taking them both up together, with respect to the same quantity of steel?

A. Yes, sir; at the same time.

Q. Do you now recall what their bids were?

A. No; I could not.

Q. Did you ask the Illinois Steel Company to bid at the same time?

A. Oh, yes; we had their prices.

Q. The question is not whether you had their prices, but whether you asked them to bid on the same quantity?

A. Yes.

Q. Now, do you recall what the Illinois Steel Company bid on that quantity of steel that you took up with the Inland and Lackawanna?

A. My recollection is that their price was lower than—considerably lower than either one of the other mills.

Q. Do you recall that they bid on that same quantity of steel?

A. Yes, we naturally would have them; we naturally would get a quotation from the Illinois at the same time we did from the other concerns, so as to have the prices all bear on the thing equally.

Q. You say "naturally," Mr. Van Hagen, but I am asking you for your recollection in regard to that particular transaction, if you have any.

A. Yes, sir.

Q. All right. Now, what is the next case in which you took up with two or more mills on the outside the question of placing an order with them for a quantity of steel?

A. I do not think there has been any such case since 1910. 1910 was the last year.

MR. COLTON: That is all.

By MR. SEVERANCE:

Q. And your knowledge of the varying quotations since 1910 has been in the way of receiving bids, as you stated, from the different mills in the general solicitation of business?

MR. COLTON: May I suggest that he also gave another method of getting in line with the market, aside from the one that you have just stated to him?

MR. SEVERANCE: What was that?

MR. COLTON: I think your question will lead him to make an answer different from the other.

MR. SEVERANCE: What was it he stated?

MR. COLTON: He stated he got a line on the cost of structural material, and the selling price of axles and various other products, and in that way figured out that he was getting the right price from Illinois.

MR. SEVERANCE: That is not what I am asking about at all. I am not asking about his knowledge of price. I am asking about his knowledge of varying quotations.

MR. COLTON: I beg your pardon.

MR. SEVERANCE: I am asking him if he got his knowledge as to varying quotations made since 1910 by these letters and calls from soliciting agents, as he has previously stated.

THE WITNESS: Yes.

MR. SEVERANCE: That is all.

MR. COLTON: That is all.

MR. SEVERANCE: Mr. De Coningh.

FREDERICK DE CONINGH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. SEVERANCE:

Q. Mr. De Coningh, where do you live?

A. Chicago.

Q. What is your business?

A. I am the president of the Sykes Company.

Q. What is the business of the Sykes Company?

A. They are sheet metal contractors.

Q. What kind of sheet metal work do you make?

A. Principally fireproof windows, made of hollow metal formed up from sheet iron.

MR. DICKINSON: Sheet iron?

THE WITNESS: When I say "iron," that is the commercial word. Sheet steel.

By MR. SEVERANCE:

Q. And you make that from what class of sheet steel?

A. Galvanized open hearth steel sheets.

Q. How long have you been in that business?

A. Since 1893.

Q. Now, during the last twelve years, from what companies have you purchased your requirements of sheet steel? I am speaking now of the ordinary run of galvanized sheet steel; not certain specialties that I will ask you about hereafter.

A. We have bought sheets from the American Sheet & Tin Plate Company, principally; from the Parkersburg Iron & Steel Company, Parkersburg, West Virginia; American Rolling Mill Company, Middletown, Ohio; Thomas Steel Company, Niles, Ohio; Brier Hill Steel Company, Youngstown, Ohio; Zug Iron & Steel Company, Pittsburgh, Pennsylvania; Niles Iron & Sheet Company, Niles, Ohio.

Q. During the last twelve years, have you had prices quoted to you by different mills from time to time when you were in the market for sheets?

A. We have had such quotations, and we have had unsolicited quotations.

Q. That is, you have had them when you have asked for them, and they have also come and quoted you when you have not asked for them?

A. Yes. Of course, if a sales agent comes to the office with a view of soliciting business, the most natural thing in the world is to ask him what his price is. That does not necessarily indicate that we are desirous of buying; simply for our general information, to keep posted on what is going on in the market.

Q. Now, during that period of time what has been your experience as to whether the various companies that you have named have quoted the same or varying prices at the same time, either when you were in the market asking for quotations or when they volunteered quotations?

A. There has been at all times a discrepancy in prices.

Q. By "discrepancy," you mean varying prices?

A. Varying prices. That is, I mean to say that at no time did we receive from all those giving us quotations the same price.

Q. Now, outside of this matter of ordinary sheet steel, what other classes, if any, of sheet steel do you use?

A. We bid on contracts to supply material. The specifications for these bids are prepared by architects and engineers and different authorities, and sometimes these specifications demand that we supply an article made of a certain brand of sheets. If we are successful in securing that contract, it is necessary for us, in order to comply with the specifications, to buy that kind of material.

Q. Now, will you describe some of this special kind of material in the way of sheets that you have to buy, and about how it ranges in price with the ordinary sheets, and who makes it?

A. The principal special brand of sheet iron in the market is called "ingot iron," and is made only by the American Rolling Mill Company of Canton, Ohio. Then there is a brand known as the "Toncan," which is made by the Stark Rolling Mill Company of Canton, Ohio; and, by the way, I should have added that company in my previous list of people that we have bought from.

Then the Inland Steel Company, of Indiana Harbor, makes a special brand called "Vismera," and the American Sheet & Tin Plate Company makes a special brand known as the "Keystone" brand.

Q. What is the particular virtue claimed for these special brands over the ordinary sheets?

A. They are all claimed to be rust-resisting. The great trouble with galvanized, or any other kind of sheet iron which is subjected to atmospheric conditions, is that it will corrode,

and the sheet which is supposed to be rust-resisting is a necessary article that a great many people are very anxious to obtain.

MR. DICKINSON: I object to all this proof about these special things as irrelevant.

MR. SEVERANCE: I think they are relevant; of course I want to get it.

By MR. SEVERANCE:

Q. How much more, ordinarily, does the American Rolling Mill Company charge for this "ingot iron" than it does for the ordinary sheets it sells?

A. From $20 to $28 a ton additional.

Q. Is that "ingot iron" much used?

A. It is quite extensively used at the present time.

Q. By what class of customers?

A. The large users; and especially is it now in demand by railroad companies. There are certain railroad systems that will not use anything else in their buildings or in any sheet metal that they require, but "ingot iron."

Q. What roads can you mention that you know?

A. The B. & O., the Big Four, and the Lake Shore & Michigan Southern are three that I can remember just now who will not use any other sheet iron but "ingot iron" made by the American Rolling Mill Company.

Q. Do you do work for these different railroads?

A. We have done work. We bid on their requirements, and if we are successful in obtaining the contract, we have to furnish the material in accordance with the specifications.

Q. How much does the Stark Company get for its "Toncan" sheets, over and above what it costs for the ordinary sheets?

A. It is some years ago since we made the last purchase of that class of sheets from the Stark Company; but if my memory serves me right, it was about $20 advance.

Q. I will ask you the same question as to the "Vismera" brand of the Inland Steel Company.

A. We never bought any.

Q. I will ask you the same question as to the "Keystone," of the American Sheet & Tin Plate Company.

A. They have a regular advance of $3 a ton over and above the price of their ordinary product.

Q. Are these special brands or special analyses of sheets, whatever they are, used for the same purposes for which ordinary sheets are used by other consumers?

A. Yes.

MR. SEVERANCE: You may examine.

CROSS EXAMINATION

By MR. DICKINSON:

Q. You stated that when you got quotations for proposed purchases, at no time did you receive from all of the bidders the same price. Now, you are speaking of the period over ten to twelve years, are you?

A. I can say that for the past ten years, yes.

Q. That at no time in the past ten years have the prices from all bidders been the same; do you state that?

A. Yes.

Q. And you know that to be a fact?

A. Yes.

Q. Don't you know it also to be the fact that frequently during that time the prices of a number of the bidders would be the same?

A. Yes.

WILLIAM B. MELISH

was called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. LINDABURY:

Q. Where do you live?

A. In the City of Cincinnati.

Q. What is your business?

A. I am the president of the Bromwell Brush & Wire Goods Company.

Q. Is that a manufacturing company?

A. Manufacturers of brushes and wire goods.

Q. What lines of wire goods does it manufacture?

A. We manufacture wire cloth of different kinds, principally wire window screen cloth, such as is used for keeping out flies; we also manufacture large quantities of domestic articles, of wire goods, rat traps, fly traps, corn poppers, dish covers, sieves, grain riddles, and many other articles that are used in the family and on the farm, etc.

Q. How many factories have you?

A. We have seven, one at Cincinnati, one at Columbus, Ohio, one at Dayton, Ohio, one at Greensburg, Indiana, one at Trenton, New Jersey, one at Baltimore, Maryland, and one at Cedar Key, Florida.

Q. When was your business established?

A. The wire goods business was established in 1819; the brush business in 1866.

Q. By whom was the wire business established?

A. By Jacob Bromwell, who was my great grandfather.

Q. And has it been maintained——

A. The business has been in the same family, father and son, during all these years, the same name, Bromwell, being on the signboard during the ninety-three years.

Q. You are the fourth of the name who has conducted it?

A. My middle name is Bromwell. I am the fourth generation.

Q. Is your business large, as compared with other manufacturers in your lines?

A. In the most of the wire goods articles that I have named we are probably the largest in the country. In brushes we are the largest manufacturers of certain kinds of brushes.

Q. Are you the largest in the world in any lines you manufacture?

A. In such domestic goods as sieves and flour sifters, in fly traps, corn poppers and rat traps, we make more than any other one house in the world.

Q. What steel products do you use in your manufacture?

A. We use large quantities of wire in the manufacture of these different wire goods. We use large quantities.

MR. DICKINSON: You are speaking of steel wire now, are you?

THE WITNESS: Steel wire, yes, sir; and large quantities of tin plates, and comparatively large quantities of light steel plates.

By MR. LINDABURY:

Q. That is, tin plates and light steel plates. Is there any difference except one is tinned and the other is not?

A. No, sir.

Q. Both are steel plates, one being tinned?

A. Both are steel plates, but I mean what we call black plates.

Q. Bright tin and black plates?

A. Yes, sir.

Q. Which of these do you use the most of?

A. Wire.

Q. What percentage of your purchases are of wire, roughly?

MR. DICKINSON: You mean in that class of things? You do not mean all his purchases, of everything?

By MR. LINDABURY:

Q. What percentage of your purchase of steel products is of wire?

A. Probably 60 per cent.

Q. What percentage is of tin plates?

A. 35 per cent.; and 5 per cent. of the steel plates, but untinned.

Q. Black plates?

A. Black plates.

Q. Now, do you buy your wire on a competitive basis?

A. Yes, sir; we buy of the largest manufacturers in the country, and we buy from eight to ten manufacturers in wire.

Q. Do you ordinarily obtain quotations on your proposed purchases?

A. Yes; they come to us with quotations because we are recognized as buyers, and as buying regularly, and then, twice to three times a year we purchase largely for what we call the season's wants, and contract for three months or four months or six months, for our wants, and when we are doing that we make an estimate of our wants, and then ask every manufacturer of any size of wire to make a bid on our wants.

Q. About how many manufacturers are there of wire goods from whom you invite those bids?

A. We invite about eight.

Q. How long have you been doing that? For some years?

A. Oh, yes; for a good many years; ten or fifteen years. Of course, that is to say, we have been doing that for many years, as far as getting bids is concerned. We are open to prices all the time. Every week there are men in trying to sell us wire.

Q. In getting in these quotations have you found them to be alike or variant?

A. Oh, they vary; sometimes they vary quite materially.

Q. And are there occasions when two or more of them are the same?

A. Oh, yes. We never know what they are going to be, of course. It depends upon the condition of the market and it depends upon the amount of orders that a mill has.

There is not a very great difference, because I presume they all know about what the market prices are, but there is always a difference.

Q. As a rule, do you find a majority of the bids received at a given time variant?

A. Yes; we regard the market as an open one, and we expect to have a difference in prices.

Q. And is that expectation realized in your practice?

A. Yes, sir. We always receive bids of different prices under different conditions.

Q. Have you, within the last ten years, seen any indication of price agreements or price fixing between the different manufacturers of these wire products?

A. We have no knowledge of any trade agreements or

arbitrary fixing of prices on the part of the manufacturers of any of these goods.

Q. That does not quite answer the question, which was as to whether or not there were any indications of such a state observed by you in the course of your trading?

A. I should say not.

Q. Has or not there been competition during the whole period of ten years last past between the manufacturers of wire products for your trade?

A. Yes, sir; there has been with our wants and our purchases.

Q. Of course that is all you know about?

A. Yes.

Q. Has that been active or dormant and sluggish?

A. It has depended somewhat on the seasons and the conditions of trade; but I regard it that there has always been an active competiton.

Q. Are there times when the prices vary more widely than others?

A. There may be a smaller demand, and there may be a condition of trade where trade is more stagnant, and then the competition would be greater.

Q. When is the competition the least?

A. When everything is prosperous and there is a great demand, and the mills are full of orders. They will make no cut in price then, and when they cannot make quick deliveries prices are more stagnant, as you might call it.

Q. Do you observe the trade paper quotations? Do you notice them?

A. No, sir; we pay no attention to those.

Q. Why not?

A. Because when we are in the market we are seeking quotations from all of the manufacturers, and when we have bought, we have bought, and we do not watch the papers to know whether things are up or down, when we are not in the market.

Q. Is it your practice to negotiate with some or all of the bidders after you receive quotations, to get a better price?

A. Yes; after we have received quotations we try to

secure a better bargain, before we close the contract, especially if it is a contract for our wants and deliveries for four or six months.

Q. And are you generally able to succeed in getting a better price?

A. Sometimes; and sometimes we are not; but we always work the thing out until we are satisfied that we have got the lowest proposition in the market.

Q. You are able to succeed often enough to make it worth while to keep it up?

A. Yes, sir; we keep it up all the time, because we believe we can do better in that way.

Q. I want to go very rapidly over the rest of this. Do you buy your plate, black and tinned, in the same way that you do your wire?

A. Yes, sir; by securing bids and then by bargaining for the best prices and conditions of the market.

Q. From about how many manufacturers do you get quotations on your plates?

A. From six to eight.

Q. And is there or not about the same variation in their quotations as in the quotations of the wire makers?

A. Yes, sir; I think there is fully as much.

Q. And would your answer in regard to competition in wire apply with regard to competition in these plates?

A. Yes, sir; and still more competition in the matter of plates; that is what I mean, the black plates.

Q. Why do you say still more competition? That is, in what respect?

A. I think we get a greater variation in prices.

Q. You mean the prices or in the quotations of prices?

A. The quotations.

Q. Do prices change oftener, or not?

A. Yes; they do.

Q. In other words, are market conditions less stable in those products than they are in wire?

A. They seem so to me. We do not buy so much in that line, but we have bought, seemingly, of more people. That

is, there is more competition, more people after the small amount.

Q. That reminds me; I think I had not asked you how much of your wire you buy from the American Steel & Wire Company.

A. We buy about 60 per cent. from the American Steel & Wire Company.

Q. From how many concerns do you buy the balance of the wire?

A. From four.

Q. Name them, will you, please?

A. We buy of the Cambria Steel Company, the Indiana Steel & Wire Company, the Spencer Wire Company, the Seneca Wire Company, the Shenandoah Steel & Wire Company. Those are the people that occur to me.

Q. Upon what basis have you awarded your business?

A. They get the other 40 per cent.

Q. Yes; but upon what basis, I say?

A. Always because their prices were lower; and where they were able to make certain kinds of wire and make as good wire as the American Steel & Wire Company.

Q. Do those who quote the lowest price on one occasion continue to do so ordinarily?

A. Yes; they are always bidders for the business.

Q. I do not think you understood that question.

(By request, the stenographer repeated the question referred to as follows:)

"Q. Do those who quote the lowest price on one occasion continue to do so ordinarily?"

A. No. I thought you meant did they continue to quote.

Q. I thought you did not understand.

A. No. They may not be the lowest bidders, but they continue to solicit business. I thought what you meant was if, having not got the order, they still continued to quote.

Q. Does the one who happens to be the highest on a particular occasion, and who lost on that account, continue to quote?

A. Yes, sir.

Q. Does he generally continue to be the highest?

A. No; we consider it an open market. If he is the highest at one time, he is likely to be the lowest the next time.

Q. So the wheel turns, and he gets his share?

A. He gets his share—if his prices are right.

Q. You gave the percentage of wire; what percentage of plates do you buy from the American Sheet & Tin Plate Company? I suppose you get that from them?

A. Yes; from the American Sheet & Tin Plate Company we buy about 65 per cent. of our wants.

Q. And the rest you get where?

A. From different plate mills. In the case of the black plates, we do not buy anything of the American Sheet & Tin Plate Company. That is, we have not, during the last four or five years. We have always been able to buy cheaper plates, and good plates, of other concerns.

Q. Then what percentage of your tin plate have you bought from them?

A. I have already answered that.

Q. No; my question embraced both; maybe you did not mean to answer as to both.

A. Of the tin plates we buy 60 to 65 per cent. of the American Sheet & Tin Plate Company.

Q. And the balance you get from how many other concerns?

A. Four or five.

CROSS EXAMINATION

By Mr. Dickinson:

Q. How long have you been getting 60 to 65 per cent. of your tin plate from the American Sheet & Tin Plate Company?

A. Five or six or seven years.

Q. How long have you been getting 60 per cent. of your wire from the American Steel & Wire Company?

A. The same length of time.

Q. What sizes are these wires that you use?

A. We use some of all sizes, from No. 9 up to No. 34, but the most of our purchases are of the finer wires, from No. 22 to 34, used in weaving different kinds of wire cloth.

Q. All these numbers from 22 to 34 are standard wire, are they?

A. Yes, sir.

Q. Such as quoted in the trade papers?

A. I presume so.

Q. You do not know about that?

A. I do not pay much attention to the trade papers. I think the trade papers quote from numbers to numbers, like 9 to 16, 16 to 24, 24 to 34.

Q. But you do not know whether wire numbered 22 to 34 was quoted regularly in the trade papers?

A. No, sir; I do not pay any attention to what appears in them.

Q. You do not?

A. No.

Q. How much black plate did you purchase in 1913?

A. In tons?

Q. Yes.

A. I don't know about that, because my memorandum covers a four-year period.

Q. I am not speaking, now, of any memorandum, but I just want to get what you carry in your mind?

A. I do not know. I could not tell by tons. There are so many little purchases, you know, and that is not a big item.

Q. Is it a small item?

A. It is a very small item.

Q. Is it smaller as the years go back? Just answer from what you know, not from any memorandum.

A. It is a small item.

Q. And it decreases as you go back?

A. No; it would not decrease. We have been using for four or five years the same tonnage per year.

Q. You have not increased your business, then, in that four or five years?

A. Well, no.

Q. How about your other wire? Has your business in it increased?

A. There has been an increase in the wire that is used in the manufacture of wire goods.

Q. All the other wire?

A. All the other wire. There has been an increase in all the other wires.

Q. And how about bright tin plate?

A. There has been an increase in that.

Q. Because, I suppose, you use a good deal of that in conjunction with the things you make out of wire, like covers to corn poppers—they are of bright tin plate?

A. Yes; and sifters, rotary flour sifters, which we make large quantities of.

Q. Take the year 1913: were any of your purchases in tin plate covered by contract, or were they just purchased——

A. We had a contract in the early part of the year 1913.

Q. With what company was that?

A. That was with the American Sheet & Tin Plate Company.

Q. How many boxes of tin plate was that?

A. About 1,000 boxes.

Q. What other contracts have you made in 1913 for tin plate?

A. We have bought from two or three parties outside, but in quantities not to exceed a total of, say, 500 boxes.

Q. Then you have only had one contract?

A. Yes; that was a contract that ran four months, that covered the heavy uses of the year.

Q. But I mean to say that, so far as your requirements for 1913 have been supplied you have only had one written contract?

A. Yes, sir.

Q. The balance were occasional purchases?

A. Yes, sir.

Q. How many of these occasional purchases have you made in tin plate?

A. Three or four.

Q. Do you know the times of the year that you made them, and the quantities in which you made them, and from whom you got them?

A. I do not know my exact dates. We had a contract that ran the first four months, that brought us up to about May;

and since then I think we have only bought small lots that have run us until September.

Q. Do you know from whom you bought?

A. Yes.

Q. State from whom you bought, without looking at any memorandum.

A. We bought some plates of the N. & G. Taylor Company, and we have bought of one or two other concerns, I do not just remember which ones.

Q. Then the N. & G. Taylor Company is the only one you can remember from whom you have bought?

A. The only one I can remember positively about now. We had quite a big stock this spring; in fact, we carried over a lot. I do not remember all the exact dates, nor the names of the other parties.

Q. Do you know the time of the year when you made this purchase from the N. & G. Taylor Company?

A. I think it was May or June.

Q. Do you know the price you paid them?

A. No, sir; I do not.

Q. Did you negotiate that purchase, or was that done by some of your purchasing agents?

A. No; I did not make the purchase personally. It went through my desk. But it was small. I do not recollect the exact details of it.

Q. Do you know, for instance, who else quoted at that time, when you made this purchase?

A. No, sir; I do not.

Q. Do you know what the quotations were?

A. I think it was some special thing that was bought probably on their quotation, on their price.

Q. But I suppose you do that pretty often, do you not, where some manufacturer makes a proposition that seems to you to be right; you buy, without taking any quotations, do you not, on such occasions?

A. Yes, sir; we are in the open market all the time.

Q. And if somebody comes and makes a price that is satisfactory to you, you sometimes close without taking any other quotations?

A. Yes, sir.

Q. Take the year 1912; do you remember how many times you purchased in the open market tin plate or wire products which were not covered by contract?

A. No, sir; I do not.

Q. You must have had a number of transactions of that kind, in a business of the size of yours, have you not?

A. I presume there were, but I do not recall them now.

Q. Nor do you recall who made quotations on any of those, do you?

A. No; I do not. I could not tell you any exact names of parties or price. I have thousands of details and questions, and I cannot possibly remember them all. Everything goes through my office, but our factory superintendents and foremen ascertain our wants, and then I have a son who runs the factories, as far as the manufacturing is concerned, and if I am not at home, he would buy.

Q. And there is a great deal, I should imagine, of detail, in a large business of this sort?

A. Yes, sir.

Q. It is a sort of brain-racking business?

A. Yes, sir.

Q. You have to dismiss a great deal of that from your memory?

A. Yes, sir; that is, it does not stick there; and I have been very busy in other matters, too.

Q. Surely. Take this period, say, of ten or twelve years; can you give any estimate for any one of those years of the number of transactions in which you bought tin or wire on occasions where you made purchases not covered by contracts?

A. Oh, yes; and there are a great many of them.

Q. There are a great many of those transactions?

A. A great many of those during the term of years.

Q. And a great many of them during each year?

A. Yes.

Q. Could you give the proportion in any one year, or approximately the proportion, how much of your requirements were covered in that way?

A. I could not with any certainty, except just along the lines I have stated, that about 60 per cent. of our purchases are from the American Steel & Wire Company.

Q. Was that always under contract?

A. Usually under contract; yes, sir.

Q. Some of it was not under contract?

A. Not from them. We make contracts with them for about three or four months. While they do not cover everything, the contracts are for a certain number of tons, to be taken out as wanted, and we specify as our wants may come along. If somebody comes along in the meantime and makes a price that is better, as frequently happens, we will give them an order for a certain amount of tons or a carload.

Q. That is to say, you give the person who makes this price such an order?

A. Yes, sir.

Q. And you do it if the price is satisfactory?

A. Yes.

Q. As to that particular transaction you would not look beyond that price, would you?

A. I would not look beyond that price, no, if we knew it was low, and was lower than our contract price. You see we do not contract for the full amount of our tonnage. We leave a lee-way. We are free to buy where we please; but we have to take a certain amount. If we are contracting for 100 or 150 or 200 tons, we take that; but that would not be our entire wants.

Q. You have contracts running over periods of something like four months?

A. Yes.

Q. Some time during that period, before that contract would have expired, somebody may come along and offer you something at a price which strikes you as favorable, and you may purchase?

A. Yes, sir.

Q. And that would be at a different time, of course, from the time when you made the written contract?

A. Yes.

Q. That is the case?

A. Yes, sir.

Q. Your dealings with the American Steel & Wire Company, doubtless, have been very satisfactory, because you have continued them for a long time?

A. Yes, sir.

Q. Running over a period of how many years?

A. It has been running over a period ever since they were organized.

Q. Take any one of these years, we will say 1907. You made a contract doubtless in 1907 for a large part of your estimated requirements for 1908, did you not, with the American Steel & Wire Company?

A. Yes; we would contract toward the end of the year for four or six months' wants for the beginning of the next year.

Q. When you made a contract for 1908 with the American Steel & Wire Company, or were negotiating for that contract, do you remember whether you renewed a previous contract upon the same price, being a satisfactory price, or not? or how would that be?

A. No, sir; we would not make a contract in any year with the American Steel & Wire Company or anybody else until we had taken their figures and had then gone to all other parties of any size making the same goods and ascertained whether we could do better or not.

Q. You found out that you did not do better, did you not? Because you continued to make these contracts.

A. Frequently we have done better. Frequently we have made the American Steel & Wire Company make a lower price.

Q. That is to say, you would find out somebody that would give you a lower price, and you would tell the American Steel & Wire Company about that, and they would meet that price?

A. We would not tell them about the price. We would treat them all absolutely alike. We would tell them what we wanted, and we would say: "What have you got to offer in the way of prices?" And we would tell them: "You can all bid on this and we will not give away any prices. It is an open thing for you to bid on." Now, if we received these

bids and bids are coming in and prices are coming in, and the American Steel & Wire Company would say: "Are you going to give us that contract?" We would say to them, if we had a lower price, "No. We can do better." And they might change the price. If they were then the lowest, or if they were the same, and we had to have their goods, or if we considered their goods to be the best, then we would contract with them.

Q. But it so came about that during this whole period you did contract with them for fully 60 per cent. of your requirements in wire?

A. Yes; because they are by far the largest manufacturers, and can always give us the best deliveries, and what they contract to do in the way of making deliveries they can and will do; and you cannot always get that from the independents, or outside chaps.

Q. In awarding the contracts to them, was that determined by those considerations, or by the fact that their price was the lowest?

A. Not always. If the price was the same I would give the preference to the largest manufacturer, or the manufacturer who made the goods we were most accustomed to, and knew the quality of.

Q. And you have given it to them when the price may have been somewhat higher, looking to their ability to manufacture and deliver?

A. No, sir; I do not think we have bought anything at any price that was above what we could get elsewhere.

Q. Then they always met the prices, did they, of competitors?

A. No, sir; they frequently would not meet them.

Q. But they did to the extent, at least, of your ordering 60 per cent. each year?

A. No; not each year. Each case stands by itself; each contract stands by itself. Under certain conditions they might do one thing one year that they would not do another year.

MR. LINDABURY: I understood him to mean an average of 60 per cent., but not 60 per cent. each year.

MR. DICKINSON: I did not understand it this way, and I have been going on the other theory. I want to have it perfectly understood.

By MR. DICKINSON:

Q. Then do you now want us to understand that this 60 per cent. of the wire is an average of a number of years, or that it was that much for each year?

A. No, sir; it was an average of a number of years.

Q. Of how many years?

A. Five years.

Q. Does that five years include 1913?

A. Up to the 1st of December of this year; yes, sir.

Q. Then, back of that, what percentage did you purchase——

A. I presume the same percentage. The reason I say five years is because I compiled the tonnage of those years, and made a comparison of it.

Q. As a matter of fact, then, as far as you can now state, throughout this whole period of ten or twelve years, you have purchased fully 60 per cent. or more from the American Steel & Wire Company?

MR. LINDABURY: I do not think you ought to put it that way, Judge,—fully 60 per cent. each year. He has not said that.

THE WITNESS: I am not talking about each year. You asked whether it had been the case during the last ten years. I think it has been the case through five years or ten years.

By MR. DICKINSON:

Q. I will get at it in another way, then. I do not want, of course, to get it wrong. Take the year 1908: Do you know the tonnage that you bought in wire, altogether, that year?

A. No, sir; I could not tell you from my mind. I know that—during the last five years, from 1908 to 1913—that during that time 60 per cent. of the wire came from the American Steel & Wire Company.

Q. I want to go back of that. That would be 1909 to 1913, inclusive, would it not?

A. Yes.

Q. Now take 1908: Do you know anything about the percentage that year?

A. I could not answer exactly as to the percentage.

Q. Approximately?

A. I presume approximately it is about the same thing,—60 per cent.; in other words, more than half of our purchases during the last ten years have been from the American Steel & Wire Company.

Q. Then I was pretty nearly right.

MR. LINDABURY: You mean each year, don't you?

THE WITNESS: Yes.

MR. LINDABURY: All right, then.

By MR. DICKINSON:

Q. Take the year 1901: You were in business then, were you not?

A. Yes.

Q. Do you know from whom you purchased wire that year, other than the American Steel & Wire Company?

A. No, sir; I could not tell you now from whom I purchased wire twelve years ago.

Q. You know you did purchase it from the American Steel & Wire Company, do you not?

A. Yes, sir.

Q. Do you know anybody else from whom you purchased it that year?

A. No, sir; I could not tell you that with exactness. I am very positive that the same people that I am quoting to you as being wire manufacturers sold to us in that year and every year from that year down to the present time.

Q. But you said, I believe, that you did recollect that you did buy it from the American Steel & Wire Company?

A. I know that we have always bought of the American Steel & Wire Company, every year; and I know that the percentage, in my opinion, ran about as big one year as it did another.

Q. Take 1902: Just state whether you have a distinct memory from whom you bought that year. I want you to state it from memory.

A. No, sir; I cannot tell you from memory what I bought that year.

Q. Do you remember that you did buy from the American Steel & Wire Company?

A. Yes, sir.

Q. Do you remember that you bought in the year 1903, from the American Steel & Wire Company?

A. Yes, sir.

Q. And in 1904?

A. Yes, sir.

Q. And in 1905?

A. Yes, sir.

Q. And in 1906, 1907 and 1908?

A. Yes.

Q. Do you remember for either one of those years any other person from whom you now know that you did buy?

A. Not if I was to swear to it, by any particular name.

Q. You have already sworn to this whole testimony. You swear to all that you tell.

A. You ask about one particular concern. I know we have bought from the American Steel & Wire Company, but if you want me to say that I have bought of the Spencer Wire Company, for instance, in a particular year, I could not tell you; I could not swear to it.

Q. Do not get in your mind that I want you to say anything. I am trying to find out the real truth distinctly about these things, and that is all.

Speaking of quotations on wire, you said that sometimes those that were the lowest may not always be the lowest, and if they were the highest at one time they might be the lowest at another time.

MR. LINDABURY: I think he put it even stronger than that, Judge.

THE WITNESS: Yes; that a man that was the highest at one time would be apt to be the lowest the next time.

MR. DICKINSON: Very well, put it that way.

By Mr. Dickinson:

Q. Do you recollect any such instance, or are you just reasoning about that and drawing a conclusion?

A. I am reasoning about that, because of the condition in which those things go in the buying of wire. In other words, I want to be understood that we never know what a price is going to be, or who is going to be the lowest, and that they are all on the same basis when they come to us, and we do not pay any attention to who the man is; but when the bids are all in, if the bids are alike in one case, why then we would say: "Well, now, he makes the best wire, the wire we are most accustomed to, or the wire that we can get the quickest." I want to be understood that there is, to our mind, no arbitrary fixing of prices and that before they come to us the price is fixed for the particular contract. It might happen, but we do not know that it does.

Q. Without going all over that in the way you have described it there, that has occurred, has it, just as you have described it there?

A. Yes.

Q. And you do not know with what party or in what years?

A. It has always been the case. It has been in the last ten years.

Q. Every year?

A. Yes.

Q. Just as you have described it in that answer?

A. Just as I have described it.

Q. Take in one year, say 1910, for illustration, in tin plate; could you recall who made the quotations that year on any transactions of that year in which you purchased, and what relation these quotations had to each other, or what variations there were, if any? Can you give us any exact information?

A. No, sir; I could not.

Q. Would that be so generally of these various years?

A. Yes, sir; it would be so. I do not charge my mind with those things when the goods are bought and paid for. I do

not charge my mind with conditions as between one year and another.

Q. You have enough to do to manufacture your goods and sell them at a profit, I suppose?

A. Yes.

Q. Would that be so as to all these years in respect of these different products that you purchase?

A. Yes, sir.

Q. You spoke about a market price, and you used this expression: "I presume they all know what market prices are." Explain, will you please, what you meant by that?

A. I would have to know the question.

Q. It was in connection with the bids.

A. Did not Mr. Lindabury ask if I paid any attention to the market?

MR. LINDABURY: No.

By MR. DICKINSON:

Q. No. I do not think it was in that connection. I just wrote it down in this way; but I think it was in regard to bids, and with regard to people bidding; and my recollection is that you said you presumed they all knew what market prices were. Now, do you recall what you said about that?

MR. LINDABURY: I will bring it out. The witness said prices sometimes, at certain stages that he was referring to, or under certain conditions, were not very different, and that he presumed they all knew what the market prices were. That was it.

By MR. DICKINSON:

Q. Do you recall that?

A. No.

Q. If you used that expression at all, that the manufacturers knew what market prices were, what did you have in mind when you spoke of market prices?

A. Well, I might have meant market conditions, or that the manufacturers might have a base price, based upon the market conditions, which of course we had no knowledge of.

Our only knowledge of prices was obtained from the actual figures made by the manufacturers.

Q. When they bid?

A. (Continuing) Not by some printed quotations or what somebody outside of the trade may say is the price.

Q. But if the manufacturers among themselves had any such market price or base price, you did not know anything about that?

A. No, sir. I think what I was trying to tell you was this: That I knew of no arrangement between manufacturers to all quote the same price, or to all make a price so little different that it was a preconcerted arrangement.

Q. Now, Mr. Melish, while you did not know of any such thing—because I take it that a matter of that sort would not be made known to customers—I will ask you whether or not throughout this period there were times when the prices would frequently be the same from a number of those who quoted to you upon the same articles?

A. Yes; that is a fact.

Q. And did that occur during all these years at various times?

A. No, sir; it generally did not occur; but sometimes the prices of several of the leading manufacturers would be the same, and in that case we would decide whose goods we wanted.

Q. Then you had to take the price and determine which goods suited you the best?

A. Yes; and which would work the best in our machinery, and whether we could get a cash discount larger from one man than from another.

Q. And on such occasions, where you purchased in that way, you did not get any lower price by [illegible]?

A. We would get no lower price, [illegible] that case we would divide the business.

Q. You do not know how often that occurred, or in what years that occurred?

A. No, sir.

Q. But it did occur, you know?

A. It does occur, yes, every once in a while.

Q. Were these factories that you have in these various places all built by your company?

A. Yes, sir.

Q. All of them?

A. You mean—all——

Q. You said you had one at Cincinnati——

MR. LINDABURY: He named seven.

THE WITNESS: They are separate, distinct factories, all owned by us.

By MR. DICKINSON:

Q. I know; but were they all built by you?

A. No, sir.

Q. Just state when you acquired them.

A. Well, our Cincinnati factory we have been occupying for many years.

Q. Take the Dayton factory next.

A. The Dayton factory—we do not own the buildings; we rent the buildings. At Columbus——

Q. Wait a minute. Did you start that business there?

A. Yes, sir.

Q. Yourself?

A. Yes; we put up a new shop.

Q. Take the Greensburg, Indiana, factory?

A. We built that factory entirely.

Q. Take next the Trenton factory.

A. At Trenton we are in a penal institution. We have a shop in the State Penitentiary. We make no wire goods there. We make brushes, scrub brushes and all kinds of brushes there.

Q. Now, how about the factory at Baltimore?

A. That is in a penal institution.

Q. How about the factory at Cedar Keys?

A. That is our own factory, built by us; but it does not make any wire goods.

Q. Then, as a matter of fact, really you started up all these concerns yourself?

A. Yes.

Q. You did not buy any competitors out and put their factories together?

A. No, sir; we are not a trust.

REDIRECT EXAMINATION

By Mr. Lindabury:

Q. Now, you were speaking of getting bids sometimes that were not the same from some of the manufacturers. Do you remember whether in any case a majority of the bids were alike, or whether it was the minority only?

A. I do not remember exactly.

Q. What is your best recollection on that subject?

A. It would generally result in different bids, and that they will all differ. Sometimes, though, they are, as I stated, the same, but to tell when, I could not.

Q. I wanted to get an idea which was the exception and which was the rule.

A. It is the exception to have them alike; it was the rule to have them different.

(Whereupon an adjournment was taken until Monday, December 8, 1913, at 10:30 o'clock a. m.)